

MT LEGISLATIVE HISTORY

Chapter 14 1986 (Sp. Session)

Bill H 36 S _____

Original bill & hist. ☒ C

H. Committee on Approp.

S. Committee on Finance

Hearing Date(s) _____ C

Hearing Date(s) _____ C

1/24 ☒ C

_____ C

4/24 ☐ C

6/27 ☐ C

_____ C

_____ C

Date Out 6/25 ☒ C

6/27 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 36

INTRODUCED BY ADDY, KEATING, MENAHAN, RAPP-SVRCEK,
REGAN, STEPHENS, VINCENT, MONTAYNE, DONALDSON,
DRISCOLL, NEUMAN, BRADLEY

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

June 19, 1986

Introduced and referred to
Committee on Appropriations.

June 25, 1986

Committee recommend bill do pass as
amended. Report adopted.

June 26, 1986

Bill printed and placed on members'
desks.

Second reading, do pass as amended.

Third reading, passed.

Transmitted to Senate.

IN THE SENATE

June 26, 1986

Introduced and referred to
Committee on Finance and Claims.

June 27, 1986

Committee recommend bill be
concurred in. Report adopted.

Second reading, concurred in.

Third reading, concurred in.
Ayes, 46; Noes, 2.

Returned to House.

IN THE HOUSE

June 28, 1986

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *34*
2 INTRODUCED BY *Adly* *Seating* *Menahan* *Rep. Smith*
3 *Rep* BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS *STEPHENS*
4 *VINCENT*
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DISCONTINUE STATE
6 OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; TO
7 AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND
8 COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO
9 OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AMENDING
10 SECTIONS 41-5-207, 41-5-403, 41-5-523, 53-1-104, 53-1-202,
11 53-1-402, 53-21-112, AND 53-30-211, MCA; REPEALING SECTIONS
12 53-21-164, 53-21-501, 53-21-502, AND 53-21-505, MCA; AND
13 PROVIDING EFFECTIVE DATES."

14
15 WHEREAS, it is the desire of the State of Montana to
16 provide effective treatment for appropriate seriously
17 mentally ill adolescents in inpatient hospital settings; and

18 WHEREAS, the State of Montana desires to sell the
19 Montana Youth Treatment Center to a private health care
20 provider specializing in adolescent psychiatric treatment.

21 THEREFORE, the Legislature of the State of Montana
22 finds it appropriate to discontinue the state operation of
23 the Montana Youth Treatment Center and hereby authorizes the
24 Board of Land Commissioners to sell the facility.

25

 Montana Legislative Council

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2 NEW SECTION. Section 1. Authority to discontinue
3 operation. Pursuant to 53-1-202, the legislature authorizes
4 the department of institutions to discontinue operation of
5 the Montana youth treatment center located in Billings,
6 Montana.
7 NEW SECTION. Section 2. Sale of youth treatment
8 center. (1) Pursuant to 77-2-302, the board of land
9 commissioners may sell the Montana youth treatment center to
10 a private health care provider that specializes in
11 adolescent psychiatric treatment.
12 (2) For 30 days following passage and approval of
13 [this act], the board of land commissioners may receive
14 proposals for purchase from interested private health care
15 providers. Each proposal must contain an agreement to
16 purchase the facility for cash at a sale price of no less
17 than the appraised value of \$3,275,000, plus reimbursement
18 of \$103,000 to the state for a prepaid special improvement
19 district assessment.
20 (3) The directors of the departments of institutions,
21 health and environmental sciences, and social and
22 rehabilitation services shall review the proposals for
23 purchase and recommend a purchaser to the board before a
24 sale is made.
25 (4) Any sale of furnishings and movable equipment is

1 in addition to the amounts stated for the land and facility.

2 (5) Proceeds of the sale must be deposited in the
3 general fund.

4 NEW SECTION. Section 3. Exempt from certificate of
5 need review. The sale of the Montana youth treatment center
6 and subsequent transfer of ownership to a private health
7 care provider is exempt from the certificate of need review
8 provisions of Title 50, chapter 5, part 3.

9 NEW SECTION. Section 4. Treatment of mentally ill
10 youth. The operation of the Montana youth treatment center
11 by the buyer is subject to the laws of Montana, including
12 the provisions of Title 53, chapter 21, regarding the
13 treatment of mentally ill youth, and the provisions of the
14 Montana Youth Court Act, Title 41, chapter 5.

15 NEW SECTION. Section 5. Conditions of sale. The sale
16 of the Montana youth treatment center is subject to the
17 following conditions:

18 (1) The buyer shall agree that as long as it holds
19 title to the Montana youth treatment center it will accept
20 those youth who are committed to the facility by the
21 district courts pursuant to the Montana Youth Court Act,
22 Title 41, chapter 5, and Title 53, chapter 21. The buyer
23 shall agree to make available a minimum of 40 beds for
24 treatment of such youth. If the buyer fails to comply with
25 the provisions of [this act], it may lose its hospital

1 license.

2 (2) The buyer shall agree to maintain a hospital
3 license pursuant to Title 50, chapter 5, part 2, and to
4 operate the facility as a mental health treatment facility.
5 The buyer shall also agree to comply with state requirements
6 relating to review and recommendations by the mental
7 disabilities board of visitors.

8 (3) The buyer shall enter a written contract with the
9 board of land commissioners providing that the buyer will
10 bind by written agreement any purchaser or successor to its
11 interest by transfer of the property to the conditions
12 contained in [this act]. The board of land commissioners
13 shall approve any exception to these conditions.

14 (4) If the buyer of the facility proposes to sell the
15 facility at any time, the state of Montana has the first
16 option to repurchase the facility and land at its appraised
17 value at the time of such sale.

18 (5) The buyer shall demonstrate that it is able to
19 meet, at the time it proposes to purchase, the standards of
20 the joint commission on accreditation of hospitals for
21 adolescent psychiatric facilities and the certification
22 standards of the health care financing administration of the
23 United States department of health and human services for
24 inpatient psychiatric services for individuals under age 21.
25 The buyer shall demonstrate successful participation in the

early survey option program of the joint commission on accreditation of hospitals.

(6) The buyer shall provide services to medicaid-eligible and indigent patients.

(7) The buyer shall accept emergency psychiatric admissions pursuant to 53-21-129 regardless of ability to pay and subject only to its licensure limitations.

Section 6. Section 41-5-207, MCA, is amended to read:

"41-5-207. Court costs and expenses. (1) The following expenses shall be a charge upon the funds of the court or other appropriate agency when applicable, upon their certification by the court:

(a)(1) the costs of medical and other examinations and treatment of a youth ordered by the court;

(b)(2) reasonable compensation for services and related expenses for counsel appointed by the court for a party;

(c)(3) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses, and other like expenses incurred in any proceeding under the Montana Youth Court Act as provided for by law;

(d)(4) reasonable compensation of a guardian ad litem appointed by the court;

(e)(5) cost of transcripts and printing briefs on appeal; and

(f)(6) cost of detention as provided for in 41-5-306(4).

(2)--If--treatment--pursuant--to--subsection--(1)(a)--is ordered-to-be-given-at-the-Montana-youth--treatment--center, costs--shall--be--subject-to-reimbursement-pursuant-to-Title 53,--chapter--17--part--4, (Subsection (1)(f) (now (6))) terminates July 1, 1987--sec. 5, Ch. 737, L. 1985.)"

Section 7. Section 41-5-403, MCA, is amended to read:

"41-5-403. Disposition permitted under informal adjustment. (1) The following dispositions may be imposed by informal adjustment:

(a) probation;

(b) placement of the youth for substitute care into a youth care facility as defined in 41-3-1102 or into a home approved by the court;

(c) placement of the youth in a private agency responsible for the care and rehabilitation of such a youth;

(d) transfer of legal custody to the department of institutions for a period of 6 months, which period may be extended for 6 months upon further order of the court after notice and hearing;

(e) restitution upon approval of the youth court judge.

(2) In determining whether restitution is appropriate in a particular case, the following factors may be

1 considered in addition to any other evidence:

2 (a) age of the youth;

3 (b) ability of the youth to pay;

4 (c) ability of the parents or legal guardian to pay;

5 (d) amount of damage to the victim; and

6 (e) legal remedies of the victim; however, the ability
7 of the victim or his insurer to stand any loss may not be
8 considered in any case.

9 (3) If the court finds that placement in a youth care
10 facility other than a youth group home or youth foster home
11 is necessary and in the best interests of the youth and the
12 community, the court shall determine if the youth can
13 receive appropriate treatment in a youth care facility
14 located in Montana as follows:

15 (a) If the court finds the youth can receive
16 appropriate treatment in a youth care facility located in
17 Montana that will accept the youth, the court may not place
18 the youth in a youth care facility located outside this
19 state unless an out-of-state facility can provide
20 appropriate treatment that:

21 (i) can be obtained at a cost less than that offered
22 by any available facility in this state; and

23 (ii) is available in closer proximity to the youth's
24 place of residence than any facility located in this state.

25 (b) When the department of social and rehabilitation

1 services is ordered to pay the costs of caring for the child
2 in a youth care facility other than a youth foster home or
3 youth group home, the court shall provide the department
4 with at least 5 days' written notice and opportunity to be
5 heard before ordering the placement of the youth.

6 (4) If the youth violates his aftercare agreement as
7 provided for in 53-30-226, he must be returned to the court
8 for further disposition. No youth may be placed in a state
9 youth correctional facility under informal adjustment.

10 (5)---If---custody---is---given---to---the---department---of
11 institutions---under---subsection-(i)-(d),---the---youth---may---not---be
12 committed---to---the---Montana---youth---treatment---center---unless---the
13 commitment---provisions---of---53-21-505---are---followed."

14 Section 8. Section 41-5-523, MCA, is amended to read:

15 "41-5-523. Disposition of delinquent youth and youth
16 in need of supervision. (1) If a youth is found to be
17 delinquent or in need of supervision, the court may enter
18 its judgment making the following disposition:

19 (a) place the youth on probation;

20 (b) place the youth for substitute care into a youth
21 care facility as defined in 41-3-1102 or a home approved by
22 the court;

23 (c) place the youth in a private agency responsible
24 for the care and rehabilitation of such a youth;

25 (d) transfer legal custody to the department of

institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;

(e) such further care and treatment or evaluation that the court considers beneficial to the youth; or

(f) order restitution by the youth.

(2) At any time after the youth has been taken into custody, the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision, order the youth to be evaluated by the department of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths.

{3}--At any time after a youth has been taken into custody, the court may request that the youth be evaluated at the Montana youth treatment center, for a period not to exceed 60 days, for the sole purpose of advising the court as to whether the youth is seriously mentally ill, as defined in 53-21-102, but the court must first find that reasonable grounds exist to believe that the youth is suffering from a mental disorder as defined in 53-21-102;

{4}(3) No evaluation of a youth may be performed at the Montana state hospital unless such youth is transferred to the district court under 41-5-206.

{5}--If the court determines that a delinquent youth or youth in need of supervision is in need of treatment at the Montana youth treatment center, the court must first determine, based on testimony of a professional person, as defined in 53-21-102, that the youth is seriously mentally ill as defined in 53-21-102. The youth is entitled to all rights provided by 53-21-114 through 53-21-119;

{6}--Upon a finding of serious mental illness, the court may commit a delinquent youth to the department of institutions and recommend that the youth be placed at the Montana youth treatment center. Upon release or discharge from the center, if the court order has not expired or if the youth is less than 21 years of age, he must be retained under the supervision of the department until the expiration of the court order or until he attains the age of 21;

{7}(4) If the court finds that placement in a youth care facility other than a youth group home or youth foster home is necessary and in the best interests of the youth and the community, the court shall determine if the youth can receive appropriate treatment in a youth care facility located in Montana as follows:

(a) If the court finds the youth can receive

appropriate treatment in a youth care facility located in Montana that will accept the youth, the court may not place the youth in a youth care facility located outside this state unless an out-of-state facility can provide appropriate treatment that:

(i) can be obtained at a cost less than that offered by any available facility in this state; and

(ii) is available in closer proximity to the youth's place of residence than any facility located in this state.

(b) When the department of social and rehabilitation services is ordered to pay the costs of caring for the child in a youth care facility other than a youth foster home or youth group home, the court shall provide the department at least 5 days' written notice and opportunity to be heard before ordering the placement of the youth.

(8)(5) No youth may be committed or transferred to a penal institution or other facility used for the execution of sentence of adult persons convicted of crimes.

(9)(6) Any order of the court may be modified at any time. In the case of a youth committed to the department of institutions, an order pertaining to the youth may be modified only upon notice to the department and subsequent hearing.

(10)(7) Whenever the court vests legal custody in an agency, institution, or department, it must transmit with

the dispositional judgment copies of a medical report and such other clinical, predisposition, or other reports and information pertinent to the care and treatment of the youth.

(11)(8) The order of commitment to the department of institutions shall read as follows:

ORDER OF COMMITMENT

State of Montana)

) ss.

County of)

In the district court for the Judicial District.

On the day of, 19..,, a minor of this county, years of age, was brought before me charged with, Upon due proof I find that is a suitable person to be committed to the department of institutions.

It is ordered that be committed to the department of institutions until

The names, addresses, and occupations of the parents are:

Name	Address	Occupation
.....		
.....		

The names and addresses of their nearest relatives are:

.....	
.....	

1 Witness my hand this day of, A.D. 19...

2

3 Judge"

4 Section 9. Section 53-1-104, MCA, is amended to read:

5 "53-1-104. Release of arsonist -- notification of
6 department of justice. (1) Each of the following
7 institutions or facilities having the charge or custody of a
8 person convicted of arson or of a person acquitted of arson
9 on the ground of mental disease or defect shall give written
10 notification to the department of justice whenever such a
11 person is admitted or released by it:

12 (a) Montana state hospital;

13 (b) State prison;

14 (c) Mountain View school;

15 (d) Pine Hills school;

16 (e) Swan River youth forest camp; or

17 (f) Any county or city detention facility; ~~or~~

18 ~~(g) -- Montana youth treatment center.~~

19 (2) The notification shall disclose:

20 (a) the name of the person;

21 (b) where the person is or will be located; and

22 (c) the type of fire the person was involved in."

23 Section 10. Section 53-1-202, MCA, is amended to read:

24 "53-1-202. Institutions in department. (1) The
25 following institutions are in the department:

1 (a) Montana state hospital;

2 (b) Montana veterans' home;

3 (c) State prison;

4 (d) Mountain View school;

5 (e) Pine Hills school;

6 (f) Montana developmental center;

7 (g) Montana center for the aged;

8 (h) Swan River youth forest camp;

9 (i) Eastmont human services center; and

10 ~~(j) -- Montana youth treatment center; and~~

11 ~~(k) (j)~~ Any other institution which provides care and
12 services for juvenile delinquents, including but not limited
13 to youth forest camps and juvenile reception and evaluation
14 centers.

15 (2) A state institution may not be moved,
16 discontinued, or abandoned without prior consent of the
17 legislature."

18 Section 11. Section 53-1-402, MCA, is amended to read:

19 "53-1-402. Residents subject to per diem and ancillary
20 charges. The department shall collect and process per diem
21 and ancillary payments for the care of residents in the
22 following institutions:

23 (1) Montana state hospital;

24 (2) Montana developmental center;

25 (3) Montana veterans' home;

- 1 (4) Montana center for the aged;
- 2 (5) Eastmont human services center; and
- 3 ~~{6}--Montana-youth-treatment-center."~~

4 Section 12. Section 53-21-112, MCA, is amended to
5 read:

6 "53-21-112. Voluntary admission of minors. (1)
7 Notwithstanding any other provision of law, a minor who is
8 16 years of age or older may consent to receive mental
9 health services to be rendered by:

- 10 (a) a facility that is not a state institution; or
- 11 (b) a person licensed to practice medicine or
12 psychology in this state.

13 (2) Except as provided by this section, the provisions
14 of 53-21-111 apply to the voluntary admission of a minor to
15 a mental health facility but not to the state hospital or
16 ~~the-Montana-youth-treatment-center.~~

17 (3) Except as provided by this subsection, voluntary
18 admission of a minor to a mental health facility for an
19 inpatient course of treatment shall be for the same period
20 of time as that for an adult. A minor voluntarily admitted
21 shall have the right to be released within 5 days of his
22 request as provided in 53-21-111(3). The minor himself may
23 make such request. Unless there has been a periodic review
24 and a voluntary readmission consented to by the minor
25 patient and his counsel, voluntary admission terminates at

1 the expiration of 1 year. Counsel shall be appointed for the
2 minor at the minor's request or at any time he is faced with
3 potential legal proceedings.

4 (4) If, in any application for voluntary admission for
5 any period of time to a mental health facility, a minor
6 fails to join in the consent of his parents or guardian to
7 the voluntary admission, then the application for admission
8 shall be treated as a petition for involuntary commitment.
9 Notice of the substance of this subsection and of the right
10 to counsel shall be set forth in conspicuous type in a
11 conspicuous location on any form or application used for the
12 voluntary admission of a minor to a mental health facility.
13 The notice shall be explained to the minor."

14 Section 13. Section 53-30-211, MCA, is amended to
15 read:

16 "53-30-211. Transfer of child to other facility or
17 institution -- notice. The department of institutions upon
18 recommendation of the superintendent of a facility may
19 transfer a child resident in one of its juvenile facilities
20 to any other facility or institution under the jurisdiction
21 and control of the department. ~~However, except as provided~~
22 ~~for in 53-21-130, no youth may be transferred to the Montana~~
23 ~~youth--treatment--center--without--following--the--commitment~~
24 ~~procedures of 53-21-505.~~"

25 NEW SECTION. Section 14. Repealer. Sections

1 53-21-164, 53-21-501, 53-21-502, and 53-21-505, MCA, are
2 repealed.

3 NEW SECTION. Section 15. Severability. If a part of
4 this act is invalid, all valid parts that are severable from
5 the invalid part remain in effect. If a part of this act is
6 invalid in one or more of its applications, the part remains
7 in effect in all valid applications that are severable from
8 the invalid applications.

9 NEW SECTION. Section 16. Extension of authority. Any
10 existing authority of the department of institutions to make
11 rules on the subject of the provisions of this act is
12 extended to the provisions of this act.

13 NEW SECTION. Section 17. Effective dates. Sections 1
14 through 5 and this section are effective on passage and
15 approval. All other sections are effective on the date the
16 deed of sale of the Montana youth treatment center from the
17 board of land commissioners is filed by the buyer with the
18 Yellowstone County clerk and recorder.

-End-

Description of Proposed Legislation:

An act to discontinue state operation of the Montana Youth Treatment Center and to authorize the sale of the facility by the Board of Land Commissioners and to amend the laws relating to the operation of the Center and to provide an effective date.

Assumptions:

1. The facility will not become medicaid eligible if it remains state owned.
2. The facility will be sold effective 10/1/86.
3. Assumes an average daily population of 44 and all are medicaid eligible.
4. Assumes the privately owned facility will be medicaid eligible.
5. Assumes that the medicaid appropriation for SRS remains as the House passed version of HB30 in the June 1986 Special Session.

Fiscal Impact:

Expenditures:

	Estimated Under Current Law	FY87 Estimated Under Proposed Law	Estimated Increase (Decrease)
<u>Department of Institutions</u>			
General Fund	\$2,442,087	\$ 724,579	(\$ 1,717,509)
Federal & Private	41,555	6,547	(35,008)
Proprietary	28,065	1,920	(26,145)
TOTAL	\$2,511,707	\$ 733,045*	(\$ 1,778,662)
<u>Department of SRS</u>			
General Fund	0	\$ 989,345**	\$ 989,345
Federal & Private	0	2,024,655	2,024,655
TOTAL	\$ 0	\$3,014,000	\$ 3,014,000

*Reflects termination pay and closing costs.

**In HB30 of the June 1986 Special Session the House has taken \$651,993 of General Fund out of the SRS FY87 authorized budget assuming the sale of the Montana Youth Treatment Center.

David L. Hunter 6/23/86
BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JK Kelly June 13, 1986
PRIMARY SPONSOR DATE

Fiscal Note for HB 36, as introduced

Fiscal Note Request HB036, as originally introduced.
Form BD15 page 2
(continued)

Revenues:

Sale of the Center	\$3,275,000
Special Improvement District Reversions	<u>103,000</u>
Total General Fund Revenue	\$3,378,000

Net General Fund Impact:

Department of Institutions Reduced Expenditures	\$1,717,509
Social and Rehabilitative Services Additional Expenditures	<u>(989,345)</u>
Net Expenditure Difference	\$ 728,164
Sale Revenue	<u>3,378,000</u>
Net Positive to General Fund	\$4,106,164

Long-Range Effect of Proposed Legislation:

1. This legislation will remove \$2,442,087 from the general fund base of the Dept. of Institution budget each subsequent fiscal year beginning FY88.
2. SRS will continue to receive federal funds requiring a general fund match.

Description of Proposed Legislation:

An act to discontinue state operation of the Montana Youth Treatment Center and to authorize the sale of the facility by the Board of Land Commissioners and to amend the laws relating to the operation of the Center and to provide an effective date.

Assumptions:

1. The facility will not become medicaid eligible if it remains state owned.
2. The facility will be sold effective 12/01/86.
3. Assumes an average daily population of 44 and all are medicaid eligible.
4. Assumes the privately owned facility will be medicaid eligible.
5. Assumes that the medicaid appropriation for SRS remains as the House passed version of HB30 in the June 1986 Special Session.

Fiscal Impact:

Expenditures:

		FY87	
	Estimated Under	Estimated Under	Estimated Increase
	Current Law	Proposed Law	(Decrease)
<u>Department of Institutions</u>			
General Fund	\$2,442,087	\$ 1,182,550	(\$ 1,259,537)
Federal & Private	41,555	10,862	(30,693)
Proprietary	28,065	3,200	(24,865)
TOTAL	\$2,511,707	\$ 1,196,612*	(\$ 1,315,095)
<u>Department of SRS</u>			
General Fund	0	\$ 762,880**	\$ 762,880
Federal & Private	0	1,580,120	1,580,120
TOTAL	\$ 0	\$ 2,343,000	\$ 2,343,000

*Reflects termination pay and related closing costs.

**In HB30 of the June 1986 Special Session the House has taken \$651,993 of General Fund out of the SRS FY87 authorized budget assuming the sale of the Montana Youth Treatment Center.

David H. Hunter 6/26/86
 BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

PRIMARY SPONSOR

DATE

Fiscal Note for HB36-as amended

Fiscal Note Request HB036, as amended.
Form BD15 page 2
(continued)

Revenues:

Sale of the Center	\$3,275,000
Special Improvement District Reversions	<u>103,000</u>
Total General Fund Revenue	\$3,378,000

Net General Fund Impact:

Department of Institutions Reduced Expenditures	\$1,259,537
Social and Rehabilitative Services Additional Expenditures	<u>(762,880)</u>
Net Expenditure Difference	\$ 496,652
Sale Revenue	<u>3,378,000</u>
Net Positive to General Fund	\$3,874,652

Long-Range Effect of Proposed Legislation:

1. This legislation will remove \$2,442,087 from the general fund base of the Dept. of Institution budget each subsequent fiscal year beginning FY88.
2. SRS will continue to receive federal funds requiring a general fund match.

APPROPRIATIONS COMMITTEE
49TH LEGISLATURE SPECIAL SESSION III
HOUSE OF REPRESENTATIVES

Francis Bardanouve, Chairman
Gene Donaldson, Vice-Chairman
Dorothy Bradley
Mary Ellen Connelly
Gene Ernst
Harry Fritz
Bill Hand
Earl Lory
Rex Manuel
William Menahan
Ron Miller
Jack Moore
Dennis Nathe
Ray Peck
Joe Quillici
Dennis Rehberg
Gary Spaeth
Bernie Swift
Bob Thoft
Cal Winslow

Francis Bardanouve, Chairman

Judy Rippengale, LFA

Marcene Lynn, secretary
Caroline Dykeman, secretary

STATUS SHEET

FORTY-NINTH

LEGISLATIVE SESSION SPECCIAL SESSION III

COMMITTEE ON APPROPRIATIONS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 25	6/18/86	6/23/86	6/23/86	6/23/86					
HB 26	6/18/86	6/23/86	6/23/86	6/23/86					
HB 30 i.e. 500	6/19/86	6/18/86	6/19/86			6/18/86			
HB 29	6/19/86	TABLED 6/25/86							
HB 31	6/19/86	6/20/86	6/20/86	6/20/86					
HB 32	6/19/86	6/24/86	6/25/86			6/24/86			
HB 36	6/19/86	6/24/86	6/25/86			6/25/86			
HB 42	6/21/86	6/23/86	TABLED	6/25/86					
HB 43	6/21/86		TABLED	6/25/86					
HB 46	6/23/86	6/24/86	6/25/86			6/25/86			
HJR 2	6/25/86	(Died in committee)							
HB 28	6/25/86	6/25/86	(Died in committee but later brought out to the floor)						
HB 33	6/25/86	6/25/86	6/25/86	6/25/86					
SJR 1	6/28/86	6/28/86	6/28/86				6/28/86		
SB 13	6/28/86	6/30/86	6/30/86					6/30/86	

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
APPROPRIATIONS COMMITTEE
49TH LEGISLATURE SPECIAL SESSION III
HOUSE OF REPRESENTATIVES

June 24, 1986

The meeting of the Appropriations Committee was called to order by Chairman Bardanouve on Tuesday, June 24, 1986 at 8:00 a.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present.

(Tape 13:A:000)

CONSIDERATION OF HB 36: AN ACT TO DISCONTINUE STATE OPERATION OF THE MONTANA YOUTH TREATMENT CENTER: TO AUTHORIZE THE SALE OF THE FACILITY BY THE BOARD OF LAND COMMISSIONERS; TO GENERALLY REVISE THE LAWS RELATING TO OPERATION OF THE MONTANA YOUTH TREATMENT CENTER; AND AMENDING CERTAIN SECTIONS.

Rep. Kelly Addy, House District 94, sponsor of HB 36, introduced the bill as a specific proposal for privatization of a state owned facility. He advised the committee that it has become a difficult problem to provide quality care. The state has found it impossible to attract psychiatrists to work at the center. He pointed out that psychiatrists are paid more than lawyers, more than the staff director of the Board of Investments, and more than the superintendent of schools in Billings. Moreover, they do not want their salaries published in the newspapers. This facility has become more than twice as expensive to operate as originally planned, and it has never become eligible for medicare certification.

He testified that the appraised value of the center is \$3.275 million, and state lands and facilities cannot be sold for less than their fair market value. Some interest in this facility has been expressed by Rivendell Corp. with its corporate headquarters in Tennessee. If they are able to provide as good or better quality care at the same or even less cost to the state of Montana, and if their proposal will return \$3 million to the general fund, the legislature should take a look at the proposal.

Section 5 of the bill are conditions of sale, including but not limited to always providing 40 beds for the treatment of court-ordered youth; mandating the buyer to become a health care provider of last resort; and stipulating that quality care will be provided. One amendment to this bill would provide hiring preference by the purchaser to present employees. (See Exhibit 2.)

Rep. Addy noted that the city of Billings gave the land to the state provided that the Youth Treatment Center would be built in Billings. He said the construction is completed and the employee payroll will remain in Billings. There is the possibility that \$750,000 in new construction will be done by a private health care organization. Rep. Addy said he was reluctant to ask the legislature to reimburse the city of Billings for a portion of the sale price as reimbursement for the land originally given to the state.

PROPOSERS: Carroll South, director of the Department of Institutions, (190) said this bill was introduced at the request of the department. He feels it is time for the state to take a good look at what can be done with the center. He informed the committee that bids to run the center were challenged in court; however, the suit was settled in the state's favor, but a late starting date caused \$100,000 to be added to the construction costs. The facility opened in 1985, and 24 Warm Springs patients were transferred there. Many problems have ensued including a tremendous staff turnover and no control over the heavy influx of patients. The 1985 legislature reduced the budget for the Youth Treatment Center by approximately \$350,000. No strenuous objections were made at that time because there was no anticipation of future problems. By June 30th, the state will have spent nearly \$200,000 on the psychiatric care even though only \$74,999 was budgeted for said care. He pointed out that there have been morale problems, control problems and problems with the building itself.

He said the facility has tried for 20 months to become Medicare-certified, but they still are unable to employ a permanent, full-time psychiatrist for the state pay plan range of \$60,000 to \$70,000. However, that has not been the sole factor that is responsible for their lack of recruitment ability. After their last survey by the federal government in December, they were told that they could never achieve certification without two full-time psychiatrists for a patient load of 40. If the facility isn't sold to someone who can achieve certification, the state will never be able to obtain certification. Mr. South is in agreement to sell the facility because he believes this corporation has a long-term commitment to quality care for the patients in the center.

June Johnson (510), representing Rivendell of America and Rivendell of Montana, said she is a member of the board of directors of Rivendell of Montana, Inc., a wholly

owned subsidiary of Rivendell of America. Ms. Johnson gave a brief summary of the history of the company. In closing, she assured the committee that Rivendell had the ability to deliver quality health services to children and adolescents with the objective of giving the very highest quality service with no consideration to any extraneous matters, i.e., ability to pay, etc. There are presently 14 shareholders in Rivendell of America, and 10 of those have mental health backgrounds.

(Tape 13:B:000)

Ms. Johnson concluded her remarks by saying that Rivendell is committed to the highest quality health care and invites due-diligence review and inspection.

Rep. Rod Garcia, House District 93, said that this center is in his district and he supported the concept to put it in Billings. He asked the committee to consider his proposed amendment. (See Exhibit 3) The property was purchased for the sum of \$333,000; today's value of said property is \$375,000. He feels that \$100,000 of the sale price be returned to the city of Billings since the money came from community development block grants. The remainder of the money would go to the general fund. He said Billings is hurting and needs the money.

Dave Goss, representing the Billings Chamber of Commerce, (14) said that major policy decisions are being discussed today which will affect Montana for many years. State and local governments are having to decide which services government can and should provide. It is our belief that some services are not available from the private sector, and it is the government's role to provide such services. However, when services are adequate and available from the private sector, government should turn such services over to them.

Steve Waldron, representing the Community Mental Health Centers, (155) supports the sale of the center provided it is sold to an organization that can provide quality psychiatric services and who has demonstrated an ability to run a psychiatric hospital. HB 36 falls within those criteria we feel are necessary in order to the state to appropriately sell the facility. He feels that they could work with Rivendell in order to provide the continuum of care for kids that come to the mental health system. He pointed out that although there is a critical need for the youth treatment center and psychiatric hospital for adolescents, there is also a critical need for more intensive group home care for emotionally disturbed children.

Rep. Winslow (189) testified as a proponent to HB 36. He said he discussed privatization with the psychiatric people in Billings, and they agreed it would be appropriate. He said there is a good possibility of privatization of the Home for the Aged in Lewistown, Eastment facility in Glendive, for Galen, Warm Springs and possibly others. Rep. Winslow said he felt it would be appropriate to consider other groups around the country who have submitted interest in the center. He submitted a copy of an article describing psychiatric care in America. (See Exhibit 4.) There are about 12 nationally known firms moving in the area of psychiatric care. Three of those listed in the article, Charter Medical, HCA, and Cumberland Homes have requested an opportunity to look at this project. He feels there is pretty much an already packaged deal in place, but we need legislative review before the deal is completed.

Rep. Winslow commented that the exemption from the certificate of need process is wrong. He doesn't want to delay the sale, but it does need review. If we are going to have a certificate of need process, it should not be done away with just because the state is involved. The privatization of this facility is extremely important. There are children who need care. We have not begun to touch the surface of the problem we have in the foster care area. And children are being sent out of state because we don't have facilities for them. We are looking at over \$1 million in supplemental next session in the foster care area, and that will continue to grow. We need to take a good look at what kind of continuum of care we have for these kids -- not just acute care. He feels the legislature should proceed in this direction by looking at what kind of care will be given and how it fits in with overall needs of the state of Montana; however, we should proceed with caution.

Kelly Morris, director of the Mental Disabilities Board of Visitors, (316) stated that the board supports this bill and the proposed sale. Since the facility opened, the board has documented concerns with regard to the Youth Treatment Center. He urged the committee to keep any delays at a minimum. The facility is understaffed leaving the youth unsupervised. Programs are being cancelled because of the inadequate staffing. The treatment needs of these residents must continue to be a priority.

Rep. Menahan (334) agreed that money should not be the major concern. He said this facility is a failure because money was a concern. He encouraged the legislature to do something positive for our youth, and someday the Board of Visitors may

give us a good writeup. He hopes the management corporation can do a better job for the youth.

Pat Melby, an attorney representing Rivendell regarding the sale of the certificate of need, (380) said the legislature has reviewed the need; we don't really need an administrative agency to review the need. We don't need an 18 month to a 2 year delay. The need has been determined when the facility was built. This is an acquisition only.

Tom Cherry (402) representing the Volunteer Mental Health Association of Montana, stated the board supports this bill. Several of their members have toured the facility and have questions regarding the situation. The certificate of need process has not contributed to care. He said he hopes the committee will move with dispatch.

Paul Melvin, (455) a field representative of A.F.T., stated that their members have expressed concern about the proposed sale. They transferred from Warm Springs with the understanding that they would remain state employees. They have no information regarding future employment with a private concern. He asked the committee to include language in the bill regarding employment of present employees. (See Exhibit 5.)

OPPONENTS: Howard Simmons, (565) a private citizen and professor of psychology at EMC, said he was not an absolute opponent, but he had his feet planted firmly in the air. He doesn't feel the state is getting a good deal with the proposed sale. He said the state is not simply selling a building. He was also upset because the state is not giving the bid process enough time. A copy of his written testimony was marked Exhibit 6 and attached hereto.

There were no further opponents, and the committee was allowed time for questions.

(Tape 14:A:000)

In response to a question asked by Rep. Bardanouve (017), June Johnson said that up to this point, the corporation has not been in a situation where clinical or professional people belong to a union. Rivendell has an open minded attitude toward their employees and labor relations. We have every intention of dealing with the bargaining unit if the employees wish to unionize.

Rep. Bardanouve (82) asked Dr. Drynan if he approved of a waiver of the certificate of need in this instance.

Dr. John J. Drynan, director of the Department of Health and Environmental Sciences, advised that the original decision was to go through an abbreviated review. After talking with lawyers, there was a consensus that this proposal would be exempt because the state exempted itself from the need for review. There is a legal opinion that this may be challenged. He personally believes that there should be an abbreviated review.

Rep. Rehberg (226) said he was disturbed with the sale section of the bill. He supports Rep. Winslow's position for the need of local review. He feels that Billings should be involved in a review of what is happening in their area. He also thinks the bill needs a lot of amendments in other areas such as previews for notice, advertising, and advising other potential customers of the sale.

Carroll South (248) advised that four providers are interested now. Contacting national providers is easy. The comparison, however, will be difficult.

RECESS: The meeting was recessed at 10:00 a.m.

Chairman Bardanouve reconvened the meeting at 1:05 p.m.

Rep. Peck (392) expressed concern regarding the rush aspect of the bill. He asked Dr. Simmons for further input.

Howard J. Simmons, psychologist from Billings, said he believed the state has four options: 1. outright sale; 2. lease; 3. management contract; and 4. contracted services. Some of these proposals would make the state money and some would cost the state money. He said it can't be done in 30 days.

Rep. Quilici (487) said he had received a letter from physicians directly involved with the Billings' facility. They expressed concern that there is a need right now for immediate relief. He asked what the bottom line is as far as taking care of these kids.

Carroll South answered that the situation is very difficult. He thinks the whole process could get out of control and should not be delayed.

Rep. Donaldson (649) said it appears that the committee is hesitant to go into this without time frames longer than the ones discussed. He asked if we could get a management contract for a year.

Mr. South said he didn't know who he would contract with.

(Tape 15:A:000)

June Johnson discussed the aspects of support for systems in place to deal with the children before, during and after their stay with Rivendell.

Rep. Bardanoue (135) said there are some serious questions to deal with. He regretted that the department has been placed in the position of having to avoid the appearance of advocating anyone. Time is of the essence, and therefore, he appointed a subcommittee to review the questions raised at this meeting. The subcommittee was requested to report back their findings within 48 hours. Rep. Peck was appointed chairman, and Reps. Spaeth, Miller and Rehberg will serve with him.

Rep. Addy closed and stated that he had one more set of amendments to offer. (See Exhibit 7.)

The hearing was closed on HB 36. (225)

CONSIDERATION OF HB 21: AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR FISCAL YEARS ENDING JUNE 30, 1986, AND JUNE 30, 1987, WHICH WOULD USUALLY BE MADE BY BUDGET AMENDMENT; PROVIDING FOR SOME APPROPRIATIONS TO CONTINUE FROM FISCAL YEAR 1986 TO FISCAL YEAR 1987; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Tom Crosser, representing the Office of Budget and Planning, presented HB 21. He explained that HB 21 is the budget amendment bill brought in at every session to deal with expanding spending authority during the interim period between sessions.

(Tape 15:B:000)

Rep. Bob Raney, House District 82, (041) presented information (Exhibit 9) pertinent to using 100% federal funds for the design of three armories in the state. If the money is turned down, there will be no chance of getting funding for the next 10 years.

Rep. Rehberg moved that amendments presented by Rep. Raney (Exhibit 9) be adopted. The motion was seconded and CARRIED unanimously on a voice vote.

General Jim Duffy, (068) director of the Department of Military Affairs explained that this would not cost the state anything until construction is begun. The plans will be on

Amendments to HB 36

Prepared by Mary MaCue for Rep. Rod Garcia

1. Page 3, line 2.

Following: "must be"

Strike: remainder of line 2 through line 3

Insert: "distributed as follows: (a) \$100,000 to the Billings housing and community development block grant fund; (b) the remainder to the state general fund."

Amendments to HB 36, white (introduced) copy

Prepared by Mary McCue for Rep. Cal Winslow

1. Page 2, line 20

Strike: Subsection (3) in its entirety

Insert: "(3)(a) A review committee comprised of the following members shall review the proposals for purchase and recommend a purchaser to the board after meeting and discussing the factors set forth in subsection (b):

(i) the directors of the departments of institutions, health and environmental sciences, and social and rehabilitation services;

(ii) members of the house of representatives and senate from the districts where the Montana youth treatment center is located;

(iii) a representative of the city where the Montana youth treatment center is located, appointed by the city council; and

(iv) a representative of local health care professionals where the Montana youth treatment center is located, appointed by the governor.

(b) The review committee shall consider:

(i) the various proposals for purchase;

(ii) conditions of the sale of the Montana youth treatment center, including the quality of care to be provided, continued state responsibilities, treatment costs, accreditation standards, contractual relationships with the state and other governmental entities and the terms of those contracts, and other matters pertaining to the administration of the Montana Youth treatment center; and

(iii) other matters relating to the sale and subsequent services and costs of a privately operated facility.

Recent Developments In Corporate Psychiatry

by Alan I. Levenson, M.D.
Dr. Levenson is Chairman of
Psychiatry, University of Arizona.



Investor-owned corporations play a very significant role in this country in the delivery of health care services in general and psychiatric services in particular. During the past several years, these large firms have achieved prominence primarily through the ownership and operation of inpatient facilities—both acute care general hospitals and psychiatric hospitals. Now, more recently, these multihospital chains have greatly expanded their operations, not only through substantial increases in the number of their hospital facilities but also through broad diversification of the health-related activities in which they are involved. While these firms are still frequently referred to as "hospital management companies" (especially in investment circles), hospitals now represent only one aspect of their business.

The first investor-owned multihospital chains were established in the mid-1960s, and today there are approximately thirty of them. While the principal focus for most of these firms is the operation of acute care general hospitals, there are approximately a dozen investor-owned chains that operate psychiatric hospitals. Currently, just about half of the facilities that are members of the National Association of

owned subsidiary, Psychiatric Institutes of America. Still another major player in the psychiatric hospital field is Charter Medical Corporation. This firm is relatively small in terms of its general hospital operations (with fewer than twenty acute care facilities), but its psychiatric operations are very substantial. The firm has made a corporate decision to emphasize psychiatric hospitals as a major focus of its business, and Charter Medical Corporation now operates more than 30 freestanding psychiatric facilities.

Another chain with a major involvement in the psychiatric field is Community Psychiatric Centers. Unlike the four firms already mentioned, however, CPC does not operate general hospitals. Along with its psychiatric hospitals, CPC's other major commitment is the operation of freestanding renal dialysis centers.

Still another firm with a heavy investment in psychiatric services has yet a different approach. This is Comprehensive Care Corporation (Comp-Care), which operates both psychiatric and substance abuse services. While the firm does own and operate some freestanding facilities, most of its business involves the contract management of psychiatric and substance abuse units in general hospitals (both non-profit and for-profit) that are owned by others.

In achieving their present position in the health care field, the chains have shown an extraordinary pattern of growth. Some of their expansion has come through the construction of new facilities. Much of what have

been a part owner of the nation's largest for-profit nursing home chain, Beverly Enterprises.) Now the hospital chains are diversifying still further by building and/or acquiring many other types of non-hospital facilities and services. These include ambulatory surgical centers, diagnostic centers, ambulatory outpatient centers (which are frequently located in shopping centers and other high-traffic retail areas), and home health agencies. In addition, the investor-owned chains are purchasing (or establishing) commercial health insurance firms, health maintenance organizations (HMOs) and preferred provider organizations (PPOs). For a chain, these financing mechanisms are seen as a means of attracting patients to the chain's own facilities and programs through benefit packages that are linked directly to the chain's own services.

Likewise, as yet another aspect of the totally integrated systems they are developing, many of the chains are in the process of spending substantial sums of money for the purchase of teaching hospitals. While most of these teaching facilities are general hospitals, some are psychiatric hospitals. The chains' interest in these teaching facilities arises in part because of the prestige that is associated with the ownership of such a facility and in part because of the fact that teaching hospitals provide highly specialized services that are necessary components of the chains' totally integrated health care systems.

Whether building individual hospitals, acquiring other chains, or (more recently) developing non-hospital based health care services, the investor-owned multihospital chains have required very large amounts of capital. To obtain these funds, the chains have used both equity and debt

financing. For equity funds, the firms have sold ownership shares to individual and institutional stockholders; and, to raise debt funds, the chains have sold bonds in the commercial credit markets. Together, these two approaches have enabled the hospital firms to raise the large sums of money they have needed; and what is particularly significant is the fact that these two financing mechanisms have given the chains access to far more capital funding than has ever been available to non-profit hospitals.

Traditionally, the non-profit hospitals have derived their capital funds primarily through charitable contributions and government grants; but both of these sources are now of much more limited value than they were in years past. As a result, non-profit hospitals are themselves now turning to commercial credit markets as the source of borrowed capital; but as they do so, these individual non-profit facilities often find it very difficult to compete with the large chains in their efforts to obtain funds. Because of their size and their established financial records, investor-owned multihospital chains continue to have a distinct advantage in obtaining the funds that are needed not only to establish new forms of health care delivery systems but simply to build new hospitals and remodel old ones.

Access to capital (through equity and debt channels) has enabled the chains to grow large and financially strong. Their size and financial strength have given them access to yet greater amounts of capital. For about two decades, the chains showed extraordinary rates of growth; but now, just within the last few months, this growth rate has showed signs of slowing down. The firms themselves, Wall

... of investor-owned firms (the remainder of the Association's members being either non-profit tax-exempt facilities or independent for-profit facilities). By comparison it should be noted that fewer than one-quarter of the nation's nongovernmental acute care general hospitals are now associated with the investor-owned multihospital chains.

The chains that are actively involved in the psychiatric field include some of the very largest in the hospital business. The largest hospital management firm of all, for example, Hospital Corporation of America (HCA), owns and operates a total of more than 400 general hospitals in this country and throughout the world as well. In addition, HCA owns and operates more than thirty freestanding psychiatric facilities. (Along with the number of HCA's facilities, another indication of the firm's size can be found in the fact that its revenue for 1984 was 3.5 billion dollars and its total assets amounted to almost five billion dollars. HCA ranked number thirteen on *Fortune's* most recent list of the fifty largest diversified service firms in the nation.)

The second largest firm in the industry, American Medical International (AMI), is a relative newcomer to the psychiatric field, but the firm is now actively involved in acquiring psychiatric facilities in many areas of the country; and, as a result of its recent commitment to the psychiatric field, AMI now has four psychiatric facilities. Meanwhile, AMI's general hospital operations are represented by its more than 150 acute care facilities.

A third firm with a major involvement in the psychiatric field is National Medical Enterprises. Along with its over 100 general hospitals, NME also owns and operates more than 30 psychiatric facilities through its wholly

result of their acquiring existing facilities. What is more, particular note must be taken of the fact that the chains' acquisitions have frequently involved not simply the purchase of individual facilities but, rather, the purchase of other entire chains. This phenomenon of one chain growing by acquiring another such firm is very evident in the psychiatric hospital field. Thus, for example, Hospital Corporation of America (HCA) achieved its prominent position as an owner and operator of psychiatric hospitals through the 1981 purchase of Hospital Affiliates International (HAI), a firm which owned and operated some twenty psychiatric hospitals. Similarly, National Medical Enterprises (NME) acquired Psychiatric Institutes of America (PIA) in 1982. Prior to its acquisition by NME, PIA had been a privately held firm that was involved in psychiatric services exclusively.

Having focused their efforts (and their resources) primarily on the development of hospitals during the past two decades, many of the chains are now becoming involved in a much broader range of health related activities. Instead of being simply hospital management companies, these firms are developing totally integrated health care systems that incorporate both a wide variety of patient care services and a wide variety of financing mechanisms as well. Some early developments in this regard could be seen in the chains' involvement in the operation of medical laboratories, physicians' office buildings, and nursing homes. (For example, through a wholly owned subsidiary, Hillhaven Corporation, National Medical Enterprises has for some time been the second largest operator of for-profit nursing homes in the country; and, likewise, Hospital Corporation of America has

YALE UNIVERSITY SCHOOL OF MEDICINE

DEPARTMENT OF PSYCHIATRY AND OFFICE OF GRADUATE AND CONTINUING EDUCATION ANNOUNCES

Comprehensive Review and Update of Modern Psychiatry

MARCH 16 TO MARCH 21, 1986

Yale University • New Haven, Ct. • Fee: \$495 for one week

Course Description

This course is a comprehensive review of the theory and practice of modern psychiatry. It is organized to meet the needs of psychiatrists and neurologists who are preparing for specialty examination. All aspects of contemporary theory and practice necessary for a written board examination will be reviewed by Yale faculty members. A course syllabus will be offered and a self-assessment type examination based on the content of the presentations will be conducted at the conclusion of the course. A significant portion of the course will be review of Neurology for Psychiatrists.

This course may also be of interest to practitioners wishing to participate in a comprehensive update of contemporary psychiatry.

In addition, access to the educational and cultural activities of both Yale and New Haven will be facilitated.

The Yale University School of Medicine certifies that this Continuing Medical Education offering meets the criteria for 43 credit hours in Category I of the Physicians Recognition Award of the American Medical Association.

Please mail to:
Ira R. Levine, M.D.
Office of Graduate and
Continuing Education •

333 Cedar Street
P.O. Box 3333
New Haven, Connecticut 06510
(203) 785-4578

Please send me further information concerning the:

☐ Comprehensive Review and Update of Modern Psychiatry

Name _____

Address _____

Telephone Number _____

Lawsuits

(Continued from page 20)

vation to assess the severity of myocymic movements under varying doses of medication, staff can observe movements to be: not present, minimally present, mild, moderate and severe. "We don't have anything better and there is no laboratory scale," said Sprague. "This method can be our easiest and least expensive instrument to use in an institutional setting."

Sprague refined his method by applying empirical standards of observation and well-known psychometric principles tested in the 1985 revision of the Principle of Standards for psychological and educational testing. He applied relevant principles for high reliability, among them: whether two observers seeing the same patient at the same time can independently agree, for example, on the severity of tongue thrusts.

Sprague and his staff trained nurses to observe 519 patients, many on psychotropic drugs, at the Cambridge State Hospital. "The only ethical experimental method to assess tardive dyskinesia is to have patients on major tranquilizers and then remove the drugs," said Sprague. The Cambridge State Hospital was under a court order to remove medication once a year to assess neuroleptics. Sprague observed 200 randomly assigned patients who had been on the drugs more than a year. They were withdrawn from medication over 24 weeks.

"We compared these patients' movements to those of patients not on medication for five years to see whether the effects were attributed to drug withdrawal," he said. During one year, he compared three groups for abnormal movements: medication on re-

PET Scanning

(Continued from page 16)

project to the temporoparietal cortex. The authors' finding that the only non-Alzheimer dement who demonstrated temporoparietal hypometabolism had Creutzfeldt-Jakob disease is tantalizing because some researchers have hypothesized that AD is caused by a novel infectious agent or slow virus.

PET promises to be a useful research tool because it can be used to study numerous other aspects of brain function. The blood-brain barrier permeability in AD can be evaluated with the nonpermeable tracer $^{67}\text{Ga-EDTA}$. If, as has been suggested, there is a defect in the blood-brain barrier in AD, abnormal brain accumulation of the isotope would be expected to occur. Other methods that might yield important results include the quantitation and regional evaluation of neurotransmitter receptors in the AD-damaged brain.

These PET results are also of major import because they may provide a method of positively diagnosing AD, as opposed to the current necessity of diagnosing the disease by exclusion. The temporoparietal hypometabolism appears to be so specific that it may clearly differentiate AD from other

causes of dementia. Preliminary results indicate that PET may be useful in distinguishing AD from treatable normal pressure hydrocephalus. Although PET is an expensive technique that currently is limited to only a few research centers, recent developments in single photon emission computed tomography (SPECT) promise to make physiological imaging capabilities available to the community hospital. The use of SPECT in combination with recently developed isotopes that can measure brain-blood flow may well lead to a new, inexpensive diagnostic test for differential diagnosis of dementia.

Acknowledgments

The authors are indebted to Thomas Budinger, MD, PhD, director of the Research Medicine Group at the Donner Laboratory, and to R.H. Huesman, PhD, Elisabeth Koss, PhD, and Chester Mathis, PhD, without whose assistance this work would not have been possible. This study was supported by the VA's Medical Research Service and by the director, Office of Energy Research, Office of Health and Environmental Research of the Department of Energy under contract DE-AC03-76SF00098.

Reprinted from VA Practitioner.

Corporate Psychiatry

(Continued from page 17)

investment analysts are, for the first time, projecting reduced growth and lower earnings for some of the largest chains. When compared with past experience, these projections for the coming year represent a significant change in the character of the chains' operation. On the other hand, it must be noted that the change is one of degree rather than direction. Despite the projection of reduced earnings and slower growth, the chains still anticipate being able to continue their pattern of expansion. As the spokesman for one of the largest chains noted in discussing expansion plans for the coming year, his firm's reduced capital expenditures during the year will still amount to approximately three-quarters of a billion dollars.

The chains' reduced growth rate can be attributed to several factors; but, surely, the introduction of prospective payment systems must be recognized as being a major one. Many observers have related the success of the investor-owned multihospital chains to the fee-for-service reimbursement system that has long been in place for both public and private health care programs.

High Point Hospital
and

The Psychiatric Times



MONTANA FEDERATION OF STATE EMPLOYEES

AFT, AFL-CIO

P.O. Box 1246

Helena, Montana 59624

ARTCRAFT, BUTTE

(406) 442-2123

JIM MCGARVEY
Executive Director



TESTIMONY OF PAUL MELVIN, FIELD REPRESENTATIVE, MONTANA
FEDERATION OF TEACHERS/ MONTANA FEDERATION OF STATE EMPLOYEES,
AFT, AFL-CIO ON THE PROPOSED SALE OF THE MONTANA YOUTH TREATMENT
CENTER [H.B. 36] BEFORE THE HOUSE APPROPRIATIONS COMMITTEE ON
JUNE 24, 1986

Mr. Chairman, members of the committee.

My name is Paul Melvin, and I am a Field Representative for the Montana Federation of Teachers/ Montana Federation of State Employees, AFT, AFL-CIO. I am speaking today on behalf of the members of the two bargaining units that we represent at the Montana Youth Treatment Center.

When I was in Billings two weeks ago, the employees at MYTC asked me to express to you, their concerns about the proposed sale of MYTC to a private health care provider.

Many of the MYTC employees transferred into that institution from SRS, Montana State Hospital, Eastmont, Pine Hills, the School for the Deaf and Blind, the Center for the Aged and other subdivisions of state government with the understanding that they would remain state employees.

When they gave up their former positions in state government to help start up MYTC, they did so knowing that the move to Billings meant that they also gave up their seniority rights at their former agencies. But they willingly made the move in order that the state could provide specialized services in a psychiatric health care facility to youth in need of help.

They have remained dedicated to providing quality treatment to troubled youth from the start-up of MYTC, and have persevered in spite of the underfunding, lack of adequate staffing, the problems associated with implementing a new treatment program, and the perceived lack of commitment by the state of Montana in securing Medicare certification.

The announcement of the proposed sale has sent shock-waves through the institution, and has affected both patients and staff. Continuity of care and continuity of personnel is directly related to positive outcomes for the mentally ill youth. H.B.36 should address this issue of "transfer trauma".

The employees are concerned that although discussions for the sale to a private corporation have been going on for months, they were not considered in this process. Now that the plans for sale have been made public, the employees know only that they will be allowed to apply for work.

They do not know if the private provider's positions will be the same, or if the requirements for their present positions will change and exclude them from consideration. There is no assurance that they will be offered training to upgrade their skills, if needed. Nor do they know what weight will be given their years of state experience, by a private corporation. Similarly, there has been no substantive information on wage rates, insurance plans, or retirement plans.

Those employees who have many years of service with the state of Montana, and who wish to remain state workers are concerned that there will be no positions available to which they can apply. They also do not know if relocation assistance will be available if they are able to transfer to another state institution.

To summarize, there is widespread concern among MYTC employees that continuity of treatment will suffer, their careers and livelihoods are facing an uncertain future, and that their loyalty and devotion to providing an essential service has not been reciprocated. They have not received adequate consideration in the process, and fear that they will be forced to incur an unacceptable personal cost.

What is needed is meaningful recognition and commitment from the state of Montana that the MYTC employees on both the direct care and clinical staffs deserve a fair deal. They need to be assured of continued employment at the same or equivalent seniority, earnings and benefits.

The best way to accomplish this is by including in the authorizing language of H.B. 36 -- the following requirements as a term and condition of this sale:

(8) The buyer shall ensure the orderly and just transition of Montana Youth Treatment Center employees from state to corporate employment by continuing recognition of the current collective bargaining units, agents and agreements in effect at the time of the sale.

(9) Montana Youth Treatment Center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any retraining necessary to qualify for similar positions within the agency.

There was a similar situation in Butte when the public hospital was sold to a private corporation. The NLRB recognized the bargaining units that transferred with the sale. This will allow for the orderly and just transition of MYTC employees from state to corporate employment, and will ensure continuity of care and treatment necessary for a positive outcome for the youth at MYTC.

Thank you.

Amendment to H.B. 36

NEW SECTION. Section 5. Conditions of Sale. The sale of the Montana Youth Treatment Center is subject to the following conditions:

(Add to end of Section 5. page 5 of H.B. 36)

(8) The buyer shall ensure the orderly and just transition of Montana Youth Treatment Center employees from state to corporate employment by continuing recognition of the collective bargaining units, agents and agreements in effect at the time of the sale.

(9) Montana Youth Treatment Center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any retraining necessary to qualify for similar positions within the Agency.

6-24-86
HB 36

24 JUNE 1986

TO: House Appropriations Committee

FROM: Howard J. Simmons

1. Details of my testimony are attached.

2. Essential points:

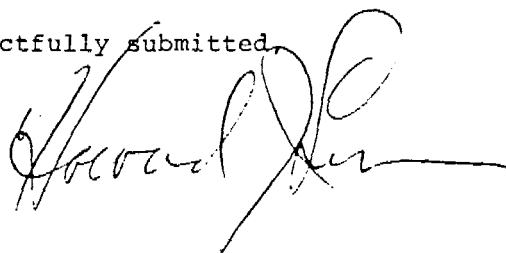
A. The 'privatization' of Montana State Hospitals is too important to be handled as a simple real estate deal.

B. HB#36 needs to be broadened to set policy explicitly.

C. To protect the financial interests of the State and the clinical interests of potential patients, competitive bidding is a must.

I suggest a 120-day period, AT A MINIMUM.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Howard J. Simmons", with a long horizontal flourish extending to the right.

21 JUNE 1986

TO: A) MEMBERS OF THE MONTANA LEGISLATURE.
 B) DEPARTMENT OF INSTITUTIONS.
 C) OFFICE OF THE GOVERNOR.

FROM: HOWARD J. SIMMONS
 2850 COLTON BOULEVARD
 BILLINGS, MONTANA 59102
 TELEPHONE: (406) 656-9705 (HOME IN BILLINGS)
 (406) 782-6619 (HOME IN BUTTE)
 (406) 723-4341 (HOSPITAL IN BUTTE)

RE: A) COMMENTS AND PROPOSALS CONCERNING HOUSE BILL #36, AN ACT TO DISCONTINUE OPERATION OF THE MONTANA YOUTH TREATMENT CENTER
B) DISPOSITION OF OTHER TREATMENT FACILITIES

ITEM 0. A GUIDE TO CONTENTS OF THIS MEMORANDUM.

Item 1:	Summary	Page 1.
Item 2:	Positive comment concerning HB #36	Page 2.
Item 3:	Negative comments concerning HB #36.	Page 2.
Item 4:	Issues apparently incidental to HB #36	Page 3.
Item 5:	Range of alternatives for offering psychosocial services and related medical services.	Page 4.
Item 6:	Proposed legislative remedies	Page 4.
Item 7:	Rivendell's proposal	Page 6.
Item 8:	HB #36 as introduced	Page 8.
Item 9:	Request to testify and acknowledgement of interests	Page 17.

ITEM 1: SUMMARY.

A) It is argued that the proposal to sell the MYTC is neither financially nor clinically sound. Similarly, formal and informal proposals for the closure of other state treatment service facilities ("in order to economize") are flawed; viz.:

- 1) Such proposals underestimate the market value of the treatment facilities.
- 2) They underestimate the need for treatment services, the severe restrictions on public access to treatment facilities, and the financial consequences of sale or closure.
- 3) They misestimate (over or under depending upon the facility being discussed) the capacity of the private sector to meet treatment needs.
- 4) They ignore other strategies for operating public treatment facilities; such strategies can reduce costs to the State and maintain or improve clinical services.

B) The present memorandum asks the Legislature to amend HB #36 to require the study of and to authorize the adoption of alternative managerial and financial strategies. This memorandum asks that the Legislature:

- 1) Direct the Department of Institutions to study the feasibility of changes in management and financing of MYTC and other state treatment agencies. An important part of this study would be a general solicitation for bids and proposals to operate our public treatment facilities.
- 2) Authorize the Department of Institutions to adopt various new managerial and financial strategies where economic and clinical considerations dictate. Among the acceptable strategies are:

- a) Abandonment and sale of the physical property.
- b) Sale of the facility including the right to do business.
- c) Leasing of the facility including the right to do business.
- d) Contracting with outside service providers to perform well defined functions at a state facility.
- e) Contracting with outside service providers to perform functions at their own facility (insurance-like subsidies).
- f) Licensing.
- g) State operation of the facility.

The listing is not meant to be exhaustive; other reasonable alternatives should also be allowed, subject to review (see Item 1-B-3, the next requirement).

- 3) Require that any change in mode of operation be approved by the Board of Land Commissioners.
- 4) Require that changes in the mode of operation have an adequate review and bidding procedure; e.g., require aggressive advertising of bidding, require at least a 120-day opportunity for bidding or review, require that appropriate data be made available to the bidders and the public.
- 5) Provide that minors' access to treatment facilities will be as easy as it is for our adult citizens.
- 6) Temporarily suspend plans for closure or sale of any state treatment facilities.

ITEM 2: POSITIVE COMMENTS CONCERNING HB #36.

During the past year, both the general public and some health care professionals have noted difficulties in the operation of the MYTC in Billings. HB #36 offers a start toward innovative proposals for solving some of the financial, clinical, and administrative problems that confront the State's treatment system today.

In the United States, there has been a pattern to the development of health care. The state governments, federal government and charitable agencies have become involved in health care through tax incentives, via grants, and even as direct service providers. The involvement of such agents in health care has been most marked in cases where:

- A) The disease is socially stigmatized.
- B) The disorder has wide social ramifications.
- C) The costs of treatment are high, treatment outcomes uncertain, and insurance coverage is low or nonexistent.

With progress in each of these areas, the State has been able to disengage itself from the direct offering of treatment services and to focus on licensure and on the provision of insurance for the indigent.

During the past ten years, the Legislature and the Administration have made significant progress in instigating improved, cost effective treatment for chemical dependency. HB #36 can serve as a starting point for similar progress in the area of mental illness.

ITEM 3: NEGATIVE COMMENTS ON HB #36.

In my opinion, there are several defects in the HB #36. I think it is important (for both financial and clinical reasons) that something like HB #36 be enacted. However, I think it is equally important that some flaws be remedied.

- A) IN GENERAL, HB #36 is too narrow in its scope. It does not allow for the full range of reasonable alternatives - alternatives that could have dramatic implications for the cost and quality of service.
- B) RE SECTION 2, PART 1 OF PROPOSED HB #36, the eligible private health care provider is poorly defined. Does the description mean that a provider that offers other services (in addition to specialized adolescent psychiatric treatment) may not bid? If that is the intent, then the range of bidders has been narrowed irrationally.
- C) RE SECTION 2, PART 2 OF PROPOSED HB #36, the 30 day period for bids is absurdly short. It would require several weeks merely to acquire the data necessary for an intelligent bid. What is required is a 90-120 day bidding period preceded

by an aggressive advertising campaign for potential bidders. It is my guess that at least three national corporations would be interested in evaluating MYTC for purchase, for lease, or for contracted services.

- D) RE SECTION 2, PART 2 OF PROPOSED HB #36, the basement price is too low. It represents only the appraised value of the physical property and the prepaid special improvement district, for a total of \$3,278,000. This basement price ignores items that have a dollar value; e.g., the exemption from the certificate of need process, the assembly in Billings of a qualified staff, the well known existence in Billings of an adolescent psychiatric facility, the important risk accepted when the the State invested in the facility. Briefly, the value of MYTC has not been assessed adequately.
- E) Items 3-B, 3-C, and 3-D in combination with the correspondence between Rivendell and the Department of Institutions (see ITEM 7) creates the unfortunate impression that the successful bidder has already been determined. The mere appearance of impropriety could (and should) provide the basis for a court challenge to the sale of MYTC.
- F) The penalties for non-performance by the purchaser are inadequate. Failure to comply with the act will result in the loss of license. We are then stuck with an unlicensed hospital. The State has no right to reclaim except in the case of resale. All of this is an invitation to lengthy and expensive litigation.
- G) HB #36 allows little or no flexibility. Were circumstances to dictate the multiple use of the facility (say for pediatric or adult patients, as well as adolescent patients) the change would require both the renegotiation of the sale contract and an act of the Legislature.
- H) There has been published no evidence that the sale of MYTC is the most appropriate way of solving the problems presented during the past year, or that the sale will improve or maintain the quality of services offered to mentally ill adolescents.

ITEM 4. ISSUES APPARENTLY INCIDENTAL TO THE MAJOR POINT OF HB #36. The major focus of this special session of the Legislature is financial. HB #36 and several other measures before the Legislature adress only the superficial and short range economic issues and ignore others that will have hidden but major financial impacts.

- A) Proposals (both formal and informal) have been made to close various State treatment agencies; e.g., the Lighthouse drug treatment program at Galen, and Mountain View at Helena. Consider Lighthouse as a specific problem. As a direct financial matter, the simple closure of Lighthouse sacrifices the hidden assets of the agency. As with MYTC, these include such things as the right to do business (certificate of need), staff, and reputation. These and other factors have monetary value. As a clinical matter, the simple closure of Lighthouse would make a bad situation rotten. The treatment facilities for drug addicts in the State of Montana are inadequate. I believe that only one hospital in the State (St. James in Butte) routinely admits cocaine addicts for detoxification. There are no long term (6 months or longer) rehabilitation facilities. Economically, the results are increased welfare costs, increased legal costs, and increased Medicaid costs as the addicts are admitted and repeatedly readmitted for short detoxifications or related physical ailments. This is a clear case where cooperation between the state agency and the private sector would yield both economic and clinical benefits. The private sector cannot simply absorb Lighthouse's function. Working jointly, the State and the private sector can save the State money and maintain some services.
- B) Given that the law concerning the treatment of adolescents is to be amended, there is a need to correct a major error in the original act. In attempting to protect the rights of adolescents, the Legislature actually deprived them of an important right exercised by adult patients. As interpreted by the authorities responsible for admission of adolescents to state institutions, adolescents may not voluntarily admit themselves to a state institution; their admission must be by court order. Only adolescents who are well insured or from consenting families with a great deal of money may seek voluntary treatment. The indigent adolescent is entitled to treatment only when his misbehavior is sufficiently severe as to warrant court action. I do not think that this was the intent of the Legislature. Allowing this situation to persist can only increase the unnecessary legal actions for the treatment of adolescents, and hence the costs.

ITEM 5: THE RANGE OF ALTERNATIVES FOR OFFERING PSYCHOSOCIAL SERVICES AND RELATED MEDICAL SERVICES. In the instigation and control of health services the State has many alternatives, each carrying with it economic and clinical benefits and penalties. Among the alternatives are:

- A) Direct provision of the service.
- B) Licensing and certification of the service providers.
- C) Contracting with outsiders to provide a defined service under specified conditions, either at a state facility or in the provider's own facility. At times, this amounts simply to paying an agent to perform a function. At other times, this is a matter of shared risk and benefits, so that the State can dramatically reduce costs or even realize income from the contract.
- D) Leasing a physical facility with the right to offer services (certificate of need). This guarantees continuing income from the facility, and provides some control through the possibility of non-renewal of the lease if the lessor does not meet performance demands.
- E. Selling the facility with the right to offer services. This relieves the State of continuing financial responsibilities, provides a one-time source of revenue, but eliminates almost all State control over the purchaser's performance.

I am deliberately ignoring some possible alternatives (e.g., selling certificates of need) because of some obvious ethical problems or financial considerations.

Considering the present state of the arts in the applied psychosocial sciences, the costs of treatment, and the degree of financial impairment frequently experienced by victims of psychosocial disorders, some combination of A, B, C, or D seem most desirable. Such combinations seem to offer an acceptable level of public control and cost containment.

Option E, The outright sale of the facility and the right to do business, seems advisable only where 'good practice' is so publicly obvious and the availability of alternative services so sure that abuse is unlikely. It should be noted that, in considering the sale of the MYTC, neither condition is met. There is a shortage of adolescent care facilities. Access to the facilities are severely and unreasonably restricted, by money and other circumstances.

I am suggesting the amendment of HB #36 to:

- A) Direct the Department of Institutions to study the desirability of pursuing all of these options in providing psychosocial treatment.
- B) Allow the Department of Institutions to pursue these options when economic and/or clinical considerations warrant such action.

I would suggest that such direction and authorization not be limited to adolescent facilities. While the poor state of adolescent care facilities requires immediate attention, there are other areas (e.g., long term drug treatment) that require equal attention.

ITEM 6: PROPOSED LEGISLATIVE REMEDIES. I strongly recommend that HB #36 be amended to read AN ACT TO AUTHORIZE CHANGES IN THE OPERATION OF THE MONTANA YOUTH TREATMENT CENTER AND OTHER STATE TREATMENT FACILITIES, and that the act:

- A) Direct the Department of Institutions to study the feasibility of changes in management and financing of MYTC and other state treatment agencies. An important part of this study would be a general solicitation for bids and proposals to operate our public treatment facilities.

B) Authorize the Department of Institutions to adopt various new managerial and financial strategies where economic and clinical considerations dictate. Among the acceptable strategies are included:

- 1) Abandonment and sale of the physical property.
- 2) Sale of the facility including the right to do business.
- 3) Leasing of the facility including the right to do business.
- 4) Contracting with outside service providers to perform well defined functions at a specific facility.
- 5) Contracting with outside service providers to perform functions at their own facility (insurance-like subsidies).
- 6) Licensing.
- 7) State operation of the facility.

The listing is not meant to be exhaustive; other reasonable alternatives should also be allowed, subject to review (see Item 6-C, the next suggested requirement).

- C) Require that any change in mode of operation be approved by the Board of Land Commissioners.
- D) Require that changes in the mode of operation have an adequate review and bidding procedure; e.g., require aggressive advertising of bidding, require at least a 120-day opportunity for bidding or review, require that appropriate data be made available to the bidders and the public.
- E) Provide that minors' access to treatment facilities will be as easy as it is for our adult citizens.
- F) Temporarily suspend plans for closure or sale of any state treatment facilities.



IVS-NB36:21 JUNE PAGE 6 OF 19

Rivendell of America

5100 Poplar • Suite 2820 • Memphis, Tennessee 38137 • (901) 685-9152



May 30, 1986

Mr. Carrol South
Director,
Department of Institutions
State of Montana
1539 11th Avenue
Helena, MT 59620

Dear Mr. South:

We have received the appraisal of the Montana Youth Treatment Center (MYTC) at a value of \$3,275,000, and find it completely acceptable. The Joint Management Committee recommended approval of the project to the Board of Directors who agreed to move ahead expeditiously. We appreciate the diligence demonstrated by you and Mr. Curt Chisholm in handling the matter so quickly. Also, please extend our thanks to the Department of State Lands for the rapid and thorough manner in which they completed the task.

We also accept the condition that the special improvement district assessment of \$103,000, which was not included in the appraisal, will increase the purchase price accordingly to \$3,378,000.

It is further understood that the purchase figure for the building and land does not include moveable equipment or furnishings, which may be purchased in part or total separately from the Department. A copy of the current inventory would assist our staff to determine what items we may desire to purchase separately and what additional equipment will need to be ordered.

We request that a computer search be initiated of the statutes which govern the present operation of the facility so that we can jointly determine what alternative legislation will be required.

It is agreed that Rivendell will expend the necessary sum of money, not to exceed \$750,000, to retrofit the MYTC to a level of environmental standards comparable to other Rivendell Children and Youth Centers. All previous commitments made by us to the Department remain in force, specifically Rivendell agrees to continue to accept court ordered referrals at the same level as currently taking place. We understand that the Legislators must approve the sale of the facility and that the Department of State Land must give a 60 day public notice of the proposed sale after that. All these factors being given, Rivendell is tendering an offer to the Department of Institutions to purchase the MYTC for a price of \$3,378,000. In June we will submit an application for a preliminary inducement resolution to the Montana Economic Development Board. If everything goes smoothly, we may be able to close the financing in September. In the event that any significant

Mr. Carroll South
May 30, 1986
Page 2

delay develops we will be able to go to alternative financing approaches in a timely fashion, and one which will be acceptable to the Department.

Because we have received a preliminary favorable finding from the Department of Health and Environmental Sciences concerning the CON for the 48 bed facility in Butte, the purchase of the Billings Center will potentiate Rivendell's posture in Montana, both financially and clinically. Having facilities in each half of the state will strengthen and stabilize the financial base of Rivendell of Montana and will increase our flexibility clinically to place patients in the facility which is closest to their home and families.

During the entire process, we will doubtlessly need the assistance of your technical staff in order to assure an extremely smooth transition. We anticipate that several key staff people will be on the ground in Billings for an extended period of time. Please advise if and when you will need myself or technical specialists to meet with you or your staff.

We look forward to the opportunity of working with your department in order to provide a greater level of care to the young people of Montana.

Very respectfully,



Richard S. Sweet, Ed.D.
President, Division I
Rivendell of Montana, Inc.
Rivendell of America, Inc.

RSS:amb

cc: Mr. Curt Chisholm
Mr. Pat Melby

ITEM 8: HOUSE BILL #36 AS INTRODUCED. HB #36 is attached. (NINE PAGES TO BE INSERTED HERE)

COPY OF THE BILL NOT INCLUDED. COMMITTEE MEMBERS ALREADY HAVE COPIES.

ITEM 9: REQUEST TO TESTIFY AND ACKNOWLEDGEMENT OF INTERESTS. I should like the opportunity to appear before the appropriate committee or committees to discuss the problems and solutions raised here.

I am presenting these views as a private citizen. The opinions presented are my own. They may or may not coincide with those held by the agencies with which I am affiliated. I do not know. I have not cleared this presentation with them.

My principal occupation (community service representative for an agency specializing in addictive and psychiatric disorders) gives me potential professional and economic interest in the outcome. Knowing what I know about my immediate and long-term ambitions, I am not sure which outcome would best serve my pocketbook.

My twenty-five years of experience (academic, clinical, and administrative) in the psychosocial sciences have provided me with some special understanding of the problems of maintaining public and private psychosocial services.

My recent two-year term on the Billings School Board has made me especially sensitive to the needs of our adolescents for easy access to quality treatment services.

For the record, a brief statement of my background appears below.

HOWARD J. SIMMONS, PH.D.

Residence: 2850 Colton Boulevard, Billings, Montana 59102
Telephone: (406) 656-9705

Hospital: Care Unit and Care Psych Center, St. James Hospital, 2500 Continental Drive, Butte, Montana 59701
Telephone: (406) 723-4341

SUMMARY OF PROFESSIONAL ACTIVITIES

ADMINISTRATIVE EXPERIENCE. HEALTH CARE AGENCIES SPECIALIZING IN TREATMENT OF ADDICTIVE AND PSYCHIATRIC DISORDERS.
1971-PRESENT.

My duties have included:

- *FINANCIAL MANAGEMENT (including budgeting, operations, fund raising, grant writing, development of fee structures)
- *PERSONNEL MANAGEMENT (including recruitment, training, development, and coordination of diverse staffs - counseling, medical, nursing, business)
- *COMMUNITY SERVICE (including marketing, public relations, education, and analysis of service demand)

CLINICAL EXPERIENCE. AGENCIES AND PRIVATE PRACTICE, TREATMENT OF BEHAVIORAL DISORDERS WITH A SPECIAL INTEREST IN PSYCHOPHYSIOLOGICAL PROBLEMS.

1970-PRESENT.

My clinical work has been well distributed with respect to acuity of illness, social class of the family, and age of the primary client; e.g., about one third of my clients have been under 18 years of age, a third have been young adults, and the rest have been middle-aged or older. My duties have included:

- | | |
|---|--------------------------------------|
| *Public information programs and publication. | *Clinical audit and supervision. |
| *Evaluation, intervention, and referral. | *Program development and evaluation. |
| *Treatment (individual, group, family). | *Staff and intern training. |

ACADEMIC EXPERIENCE. UNIVERSITY TEACHING AND RESEARCH.

1963-PRESENT.

*Teaching fields: Physiological psychology, chemical dependency, experimental psychology, clinical psychology, research design, statistics and applied mathematics.

*Research fields: Chemical dependency, neurophysiological mechanisms of emotional behavior.

APPLIED MATHEMATICS AND ENGINEERING. IN CONNECTION WITH SUBSTANTIVE AREAS CITED ABOVE.

1954-PRESENT.

My concerns have included statistical and other mathematical techniques, computer methods, and instrumentation in the behavioral and biological sciences; e.g., numerical methods for description and analysis of brain damage in animals, computer based laboratory exercises for students in experimental psychology.

EDUCATION

POST-DOCTORAL STUDIES IN CLINICAL PSYCHOLOGY. Veterans Administration Psychiatric Hospital, North Little Rock, Arkansas. Supervisor: Dr. M.Rae Barnes. 1970-1971.

POST-DOCTORAL STUDIES IN COMPARATIVE NEUROLOGY. Department of Anatomy, University of Arkansas Medical School, Little Rock, Arkansas. Supervisor: Dr. Ervin Powell. 1969-1971.

PH.D. IN PSYCHOLOGY WITH MINOR STUDIES IN PHYSIOLOGY AND MATHEMATICS. University of Illinois. Supervisor: Dr. Garth J. Thomas. 1965.

B.S. IN MATHEMATICS. Massachusetts Institute of Technology, Cambridge, Massachusetts. 1954.

PROFESSIONAL SOCIETIES

SIGMA XI, AN HONORARY SCIENTIFIC RESEARCH SOCIETY.

DETAILS OF PROFESSIONAL ACTIVITIES**RECENT ACTIVITIES**

COMMUNITY SERVICES COORDINATOR AND ASSISTANT PROGRAM MANAGER. Care Unit and Care Psych Center, St. James Hospital East, 2500 Continental Drive, Butte, Montana, 59701. (406) 723-4341. The Program Manager is Mr. Robert A Farren. 1983-PRESENT.

The Care Unit offers inpatient treatment for chemical dependency. The Care Psych Center provides inpatient treatment for psychiatric disorders, and stress-related problems. My duties are administrative, clinical, and educational.

OWNER AND PRINCIPAL COUNSELOR. Lampson, Post Office Box 23504, Billings, Montana 59104-3504. (406) 656-9705. 1978-1983.

Lampson is an outpatient counseling service specializing in the treatment of chemical dependency and other psychophysiological disorders.

ADJUNCT PROFESSOR OF PSYCHOLOGY. Eastern Montana College, 1500 North 30th Street, Billings, Montana, 59101. (406) 657-2242. The Department Chairman is Dr. Beal Mossman; he is on-leave during the current year. Dr. Ellen E. Garber is the Acting Chairman. Service is without financial compensation. 1977-PRESENT.

My duties include research, the supervision of interns and trainees, and occasional classroom instruction. This year, I am supervising three interns and teaching a graduate seminar on the treatment of chemical dependency and offering a community education seminar on crisis intervention.

TRUSTEE. Board of Trustees, Billings School District #2, Billings, Montana. Service is without financial compensation. 1983-1985.

The Board sets policy and oversees the operation of the Billings school system. This is an elective office.

AMENDMENTS TO HB 36, INTRODUCED COPY
Before the House Appropriations Committee

1. page 3, line 24
after "youth." strike the remainder of line 24, and strike line 25
in its entirety.

page 4, line 1, strike "license"

page 3, line 24 insert: The buyer or any subsequent transferee
must keep reasonable documentation of compliance with this
condition. Failure to comply with the provisions of this section
may result in the loss of hospital licensure.

2. page 17, line 17
after: "is"
delete: "filed by"
insert: delivered to

3. page 17, line 17
after "buyer"
insert: "."
delete: "with the Yellowstone County clerk and recorder."

Amendment to House Bill 21

Strike and insert

Page 4, Line 16
Strike "94,700"
Insert "249,700"

This addition to the Department of Military Affairs Amendment is for authority to design the Armories at Livingston and Libby. The cost of the design will be 100% Federal Funds.

The design is necessary to reserve federal construction funds for short term future use. If the Armories are not designed prior to Federal Fiscal year 87, then the Federal Government will drop the projects from their construction list and it may be 10 years or more before they can be rescheduled.

1350
12
650
500
650
130
780

VISITORS' REGISTER

APPROPRIATIONS

COMMITTEE

BILL NO. 7, 18, 21, 29, 32, 36-43 DATE June 24 1986
446

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HOWARD J. SIMMONS	2850 CORTON BLVD BILLINGS MT 59102	SEEK TO AMEND X	
336 CURT CHISHOLM	D/I	X	
36 Jennie Johnson	5105 Poplar #2220 Memphis TN	X	
36 Carroll Smith	Helena	X	
36 Pat Holman	5100 Poplar #2220 Memphis TN	X	
36 LINDA HOTTEL	5100 Poplar #2220 Memphis TN	X	
MARVIN DYE	HELENA		
Steve P Nelson	Helena	X	
36 Paul Hobbs	Helena	SEEK TO AMEND X	
Jim Currie	D/I	X	
Norm. Hams	OEPP	X	
Don / Kelly	N.H. House #101 N. Ave	X	
36 Pat Melby	Helena - Riverview	X	
11 CARROLL STOUT	D/I	X	
Steve Walker	Mental Health Center	X	
487 Lane Carroll	Dept of Justice Helena	X	
487 William H. Morrison	Great Falls	X	
Don Judge	Montana State AFL-CIO	HB 32 X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
APPROPRIATIONS SUBCOMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES
49TH LEGISLATIVE SPECIAL SESSION III

JULY 24, 1986

The meeting of the appropriations Subcommittee was called to order by Chairman Peck on June 24, 1986 at 7:05 p.m. in Room 104 of the State Capitol.

ROLL CALL: Rep. Peck, Rehberg, Miller and Spaeth were present.

TAPE 22:A:000

The purpose of the meeting was to hear testimony on HB 36, regarding the proposed sale of the Montana Youth Treatment Center in Billings, and report back to the full committee.

Rep. Peck said he had read the bill thoroughly and assumed the other committee members had done the same. He said he had also gone over Dr. Simmon's presentation and had come up with many issues and questions.

- 1) Page 2, lines 10 and 11: "...specializes in adolescent psychiatric treatment..."
- 2) Page 2, lines 12, 13 and 14: "For 30 days...may receive proposals..."
- 3) Page 3, lines 4 through 8: The question of the certificate of need review was raised again.
- 4) Page 4, lines 2, 3 and 4: "The buyer...operate... a mental health treatment facility."
- 5) Page 4, lines 12 and 13: "The Board...shall approve any exception..."
- 6) Page 4, lines 24 and 25, page 5, lines 1 and 2: "...under age 21. The buyer shall demonstrate successful participation...on accreditation of hospitals."
- 7) Page 6 is somewhat confusing in its entirety.
- 8) Dr. Simmon's proposal raises the question of why Montana adolescents are excluded from voluntary commitment.

Appropriations Subcommittee

Page 2

June 24, 1986

Rep. Spaeth expressed concern that nothing seems to have been done other than ask one party if they would be interested in purchasing the M.Y.T.C. He said he could not support that position.

Rep. Rehberg raised questions about page 4, lines 14 through 17. He had concerns about who the qualified appraisor would be and who pays for the appraisal.

Rep. Miller said that when a building of considerable value is appraised, the seller has an appraisal, the buyer has an appraisal, and in this case the state would want to have its own appraisal.

Rep. Peck said there were four amendments to HB 36 that the Subcommittee should also consider:

- 1) Rep. Garcia's amendment (Exhibit 1).
- 2) Mr. Melvin's amendment (Exhibit 2).
- 3) Rep. Winslow's amendment (Exhibit 3).
- 4) Rep. Addy's amendment (Exhibit 4).

Rep. Peck (117) discussed Item 1, saying the issue has been raised if the language "...specializes in adolescent psychiatric treatment..." would limit or restrict bidders who may not want to limit themselves to that care.

Rep. Addy replied that the buyer should qualify as a provider of specialist quality care in adolescent psychiatric treatment. The buyer should not be able to run a general hospital and treat the adolescents as a sideline.

Rep. Spaeth noted that the word 'specialize' can be interpreted in different ways. It can mean a type of care provider who only provides adolescent treatment, or it can mean a care provider who among its specialties has adolescent psychiatric treatment.

June Johnson, the representative of the Rivendell Corporation, testified that there are programs that do admit adults and adolescents into the same program. She said that in the opinion of Rivendell Corporation that is incredibly inappropriate. They feel that adolescents require different, specialized services than do adults. The educational program, for instance, and there is a difference in the individual and group therapy treatment for the adolescent versus the adult population

There was some discussion over the terminology to be used, i.e., "...a care provider that offers specialized adolescent

services..." or "...experience in providing specialized adolescent psychiatric care..." No action was taken at this time.

Rep. Peck (202) led the discussion to Item 2 and said that although it spoke of 30 days to receive proposals, there is a real 60 day total as a result of the statement.

Carroll South, Director of the Department of Institutions, explained that in 1975, when the facility at Twin Bridges was sold, a specific statute, 77-2-302, was put in to regulate the sale of a state institution. There is a requirement for a 60 day public notice. When this is combined with the 30 days in HB 36 that makes a total of 90 days.

Rep. Rehberg presented alternate language for the time period needed. "...the Board of Land Commissioners shall publish at least once in any trade publication or newspaper of general national circulation, a notice stating the general terms of the sale and describing the facility involved. The notice shall fix a day not less than 60 days and not more than 90 days from the date of the first publication..."

Rep. Miller said it should not be dragged out any longer than absolutely necessary. He expressed the opinion that any large corporation with oomph could get a proposal together a little faster than 90 days.

Rep. Rehberg disagreed. He stated the subcommittee was talking about someone owning the facility and providing a service to the state of Montana for the next 30 to 50 years and he did not think we should play numbers games on whether it was 30, 60 or 90 days.

Mr. Melby (300), attorney for the Rivendell Corporation, said he believed there were only about a dozen companies who would be able to make a proposal to purchase the M.Y.T.C. He suggested that perhaps they could be contacted by a letter from the Department of Institutions, enclosing a copy of the bill, and spelling out the conditions of the sale. He felt any company able to propose would have the ability to do this in 60 to 90 days.

Mr. South said we were selling an institutional building, subject to section 77-2-302, and not the section for public lands. Section 77-2-302 does not require public advertising. The constitution only requires that the state receive fair market value for the building.

Appropriations Subcommittee

Page 4

June 24, 1986

Mr. South went on to say that he thought a personal mailing could be done a lot faster than advertising in a trade journal. He has five firms who have contacted him about the M.Y.T.C. and he felt there would not be more than seven or eight others who would be capable of making a proposal acceptable to the state.

Rep. Peck said he was leaning toward some requirement for public advertising.

Rep. Addy appreciated the concern that this sale be made as open a process as possible. He thought publication might well be the quickest way to advertise.

Rep. Peck went on to Item 3, the exemption of a certificate of need review.

Me. Melby (405) advised the subcommittee that he and others had had a long conversation with Dr. Drynan, Director of the Department of Health and Environmental Sciences, and he, Dr. Drynan, had advised that if the bill provides for a review committee composed of department directors, some legislative representation and perhaps a mental health professional who would review the proposals and make recommendations to the Board of Land Commissioners he felt the certificate of need review would be redundant.

Mr. South remarked that the M.Y.T.C. had already been certified once and any review would simply decide who would come in and take the place of the state of Montana.

Dr. Simmons noted that the certificate of need review did two things; 1) Determined if a facility was needed, and 2) Who would get the facility. Since the first question has been answered perhaps a truncated review might be held to answer the last half of the question.

Rep. Rehberg asked if the state had originally gone through the certification procedure.

Rep. Addy said the M.Y.T.C. had been given their certificate of need in 1982.

Rep. Winslow felt there was a need for the review, but that if Dr. Drynan did not require it in this instance, he said it should not be put in the bill and thereby set precedent.

Mr. Melby opposed this, saying that anyone could come and say there should have been a certificate of need review, file a lawsuit and the court would have to make the deter-

June 24, 1986

mination. He felt the legislature should make it clear that there was no need for the review, under the circumstances, and this should be specified in the bill.

Rep. Winslow disagreed and said he did not think Mr. Melby's proposal would avoid going to court. He felt it was very dangerous to set precedent in law in this manner.

Rep. Rehberg asked if reference could be made to the review committee? That the exemption be left in under the caveat that it was a review committee that created the exemption?

Rep. Winslow (505) said he did not think that would afford protection against a lawsuit if anyone wanted to file one.

Rep. Addy stated that Rep. Rehberg's solution was that we are not exempting the buyer, but a mechanism in the bill will substitute for the normal certificate of need review.

Rep. Peck said that Rep. Rehberg seemed to have found some middle ground and asked that language be written up for recommendation to the full committee.

Rep. Peck brought up Item 4 and said that Dr. Drynan had suggested the language be changed to "...operate the facility as a psychiatric hospital..."

Rep. Winslow said that was correct; that the department did not license anything but hospitals and the phrase "...mental health treatment center..." could possibly be an outpatient facility.

Mr. South objected by saying the state wanted the purchaser to operate under the Mental Health Act, under Title 53, and they are described as a mental health facility in that act. The M.Y.T.C. is licensed now as a psychiatric hospital for adolescents; but the licensure and what we are doing, in subsection 2 at least, are totally different.

Mr. South read a statement from the Mental Health Act: "The only way that this facility will remain subject to review by the Mental Disabilities Board of Visitors is if it is a mental health treatment facility as defined under Title 53." He said if we strike that wording there is a good possibility the facility would no longer be subject to review by the Board of Visitors.

Rep. Rehberg (600) inquired if the state was getting into a box by requiring the hospital license be approved by the Department of Health, or was the Department of Health

operating under the Mental Health Act?

Mr. South replied that the M.Y.T.C. is presently licensed as a psychiatric hospital, but under Title 53 it is also a mental health facility and should remain that way. The Mental Health Act is very specific as to what has to be done in terms of patient rights, how a patient gets into the facility, et cetera.

Mr. Melby suggested compromise language of "...the buyer shall agree to maintain a hospital licensed as a psychiatric hospital ... and shall operate the facility as a mental health treatment facility pursuant to Title 53, chapter 21."

Rep. Peck introduced Item 5, the exception authority that would be granted to the Board of Land Commissioners.

Rep. Spaeth said that basically if this is passed the Board of Land Commissioners can do anything they want. They can override anything the committee says or does. The exemption should be for lines 8, 9, 10 and 11 only.

TAPE 22:B:000

Rep. Peck brought up the matter of page 4, lines 14 through 17.

Rep. Rehberg said he felt the subcommittee should address the qualifications of the appraisal, who pays for it, and who it is going to be done by. He went on to say that it is seldom a seller gets a price believed to be adequate, and particularly now at the bottom of the market.

Mr. Melby suggested language to the effect that a buyer would pay for all the closing costs, including the cost of the appraisals.

Rep. Peck asked Rep. Rehberg and Mr. Melby to get together and draft language pertaining to the appraisal if the state should have to reacquire the property at any time.

Rep. Peck presented Item 6 for discussion, saying he felt there was a problem in limiting care to patients under 21, because it might eliminate potential purchasers.

Mr. Melby said the language dealing with inpatient psychiatric services for individuals under the age of 21 is language lifted out of the federal regulations. That is a special part of the medicare and medicare regulations for H.F.C.A. certification.

June 24, 1986

Mr. South stated that the early survey option is in the bill because any purchaser will have to go through some type of renovation, staffing and some training before they will feel comfortable about asking for a survey team from either H.J.A.H. or H.C.F.A. This will probably be 60 to 90 days after the purchase. If the survey team comes in and the facility is deemed certified as of that date, there will be costs for providing services to the children presently at the M.Y.T.C. during that 60 to 90 day period. Rivendell has told the Department of Institutions that they are prepared to absorb those costs if they are the purchaser.

He went on to say the department was concerned that if the early survey option was not in the bill, and certification did not come for several months, that the purchaser would be looking for reimbursement from the general fund during the period of time it took to receive medicade certification.

Rep. Peck (107) asked if this language would be an impediment to potential buyers.

Mr. South replied that it was not an impediment. If the purchaser has the organization, the staff and the ability to go through early survey option there should be no problem. The department plans to reduce HB 500 on the very day that the facility is sold. That presupposes that there will be no contract between the state and any purchaser for any of the mandated court committed beds. Anyone who purchases the facility will have to absorb those costs until such time as the facility is medicade certified. Mr. South said it was in the best interest of the state to make sure that whoever purchased the M.Y.T.C. could get their act together very quickly and become certified. Rivendell has agreed to do that and he suggested that any other purchaser would have to do the same thing.

Rep. Rehberg commented that sometimes some people have an easier time getting through an abbreviated form of review than others, and if it help perhaps making it an 'and/or' term then the state would be protected. It would be understood, of course, that the purchaser accepted the responsibility for the present patients at the M.Y.T.C.

Mr. South reiterated that the Department of Institutions did not envision any contract between the department and any purchaser of the M.Y.T.C. for the patients after the date of purchase. Wording of this type would perhaps clarify this issue.

Rep. Peck said he thought the subcommittee members would

June 24, 1986

feel more comfortable if it was clearly worded in the bill. He asked Mr. South and Mr. Melby to get together on the wording of appropriate language.

Rep. Peck admitted to being basically confused about Item 7.

Mr. South said it was there to correct existing law, or rather what would be a pointless reference in existing law. If the M.Y.T.C. is sold there would be no point in having language and statutes referencing the M.Y.T.C. It will cease to exist as far as state law is concerned.

Rep. Peck presented the issue raised by Dr. Simmons, the fact that adolescents are not allowed to commit themselves for treatment.

Mr. Melby (210) testified that the mental health commitment law does provide for the voluntary commitment of minors, but in practice there is only one place where they can be committed, the M.Y.T.C. The statutes governing the M.Y.T.C., however, preclude any type of commitment other than involuntary.

He noted that Warm Springs, by law, cannot take adolescents. M.Y.T.C., by law, cannot take voluntary commitments. That is the problem. When the statutes dealing with M.Y.T.C. are removed then adolescents can be treated at M.Y.T.C. under the mental health laws.

Rep. Peck asked if there were further issues to be discussed by the subcommittee.

Rep. Spaeth said he had a question regarding page 3, line 18. "The buyer shall agree..." He said he has found that health care providers generally have a lot of subsidiaries, wholly owned corporations that even legal counsels within subsidiaries cannot fathom their whole relationship. What would happen if we have a buyer who transfers to a subsidiary and that subsidiary goes out of existence?

Mr. Melby replied that the answer was on page 4, line 14 where it is set out that the original purchaser may not transfer title without the consent of the State Land Commission. The protection is already in the bill.

Rep. Rehberg (268) raised the question of earnest money. He felt that checks at the end are good, but money on the table is better. He asked if the state was protected in case a purchaser was selected and then could not find financing or for some other reason was unable to consummate the purchase.

Mr. Melby suggested that all proposals be accompanied by a 2% performance bond. If the selected purchaser fails or refuses to perform the bond would be forfeit.

Rep. Peck (336) asked the subcommittee to address the matter of the four amendments that had been presented for review.

Rep. Spaeth said he felt that Rep. Garcia's amendment, (Exhibit 1) should be rejected. The facility will still be there and the city of Billings will continue to receive the same benefits they are now getting.

Rep. Rehberg said he would support the amendment. He said there may be some benefit to the tax rolls, but that there would be no individual benefit to the programs that had originally donated the land. He felt the Billings Housing and Community Block Grant fund should be replenished so that other programs could be brought in.

Rep. Miller moved that the amendment be rejected.

By voice vote the motion CARRIED, with Rep Rehberg dissenting.

Rep. Peck (412) presented the amendment proposed by Mr. Melvin, the union representative (Exhibit 2).

Ms. Johnson said she understood there was no formal contract with the union, just a general agreement. She went on to say that Rivendell was willing to deal with the union but their primary concern would always be to maintain a first loyalty to the patients.

Rep. Peck told Mr. Melvin they could not put in the law a recommendation for a collective bargaining agreement that did not, as yet, exist.

Mr. Melvin replied that he was recognized as the certified agent and would have to establish a local in Billings.

Rep. Miller suggested that a portion of Mr. Melvin's amendment, that part regarding the M.Y.T.C. employees who wish to remain state employees, could be added to Rep. Addy's amendment as No. 9.

Rep. Addy said it would change the fiscal note somewhat, but it was technically possible. He said he appreciated what Mr. Melvin was trying to do and he had no problem with Rep. Miller's suggestion.

Rep. Peck asked Mr. Melvin how he felt about Rep. Addy's

June 24, 1986

proposal that "...the buyer will accept applications from all M.Y.T.C. employees who desire to continue employment with the purchaser. Between substantially qualified applicants present employees of M.Y.T.C. shall be given preference in hiring by the purchaser."

Rep. Addy commented that it should read "...substantially equally qualified applicants..."

Mr. Melvin felt the employees were not being guaranteed anything with that wording, that it was only a tie breaker. He said the present employees deserved preference because of the months they have spent at the facility.

Mr. South (500) said he believed that whoever purchases the facility will use the present employees. It would be in their own best interest to do so.

Rep. Peck asked what would be the governing state regulation if an employee was caused to relocate?

Mr. South said there was no general state regulation. It depended on departmental policy. The Department of Institutions paid for relocation expenses of the staff who went from Warm Springs to Billings. That precedent has been set. If the department has to pay relocation expenses again, an estimate would have to be made of how much it would cost and the appropriation for M.Y.T.C. reduced accordingly.

Rep. Addy said that some of the employees did not want to withdraw from P.E.R.S. at this time. They would prefer to seek other positions with the state.

Mr. Melvin said those were the people he had in mind, those with many years of state service. He thought that perhaps ten employees would fit that description.

Rep. Peck admitted to confusion regarding the wording "...who wish to remain state employees would provide...and any retraining necessary to qualify for a similar position within the agency..." He thought that retraining would be a major cost item if certain specific assignments were to be chosen.

Mr. Melvin said he assumed they would be similar positions and that retraining would be minimal.

Rep. Miller (600) said he would like to attach Item 9 of Mr. Melvin's amendment to Rep. Addy's amendment and eliminate Items 1 through 8 of Mr. Melvin's proposal.

Rep. Spaeth said he would support that compromise.

Rep. Rehberg asked for time to think about it.

Mr. South asked what was meant by 'shall'? He asked if it meant he had to guarantee a job to every person who was not hired by the purchaser and said that would be difficult, particularly with the budget cuts now being enacted. Relocation expenses would be small compared to job guarantees.

Rep. Spaeth suggested putting in "...similar vacant position."

Mr. Melvin thought that would be reasonable under the circumstances. He asked if 'substantially equal' could be struck and the present employees given preference. He thought this would be in the best interest of the provider and would help staff morale at this time.

Rep. Peck said the state could not obligate an independent buyer in that manner.

TAPE 22:A:000

Rep. Rehberg said Mr. Melvin's suggestion would not be fair to the purchaser, especially under the rules and laws in the area of employee termination.

Ms. Johnson testified that Rivendell gives credit for experiential training in all positions and they currently substitute experience and training for degree work. Every employee would be looked at individually. She felt those employees who are there, who have experience in direct patient care with the very patients Rivendell would inherit, would certainly have preference. It would make the transition easier for the patients as well as the remainder of the staff.

Rep. Peck asked Ms. Johnson if she would not oppose striking "...substantially equally qualified..." and leave "...present employees of M.Y.T.C. shall be given preference..."

Ms. Johnson said she would prefer "...substantially equally qualified..." but if necessary she would accept the other language. She said she expected that most of the current employees have experiential training that would substitute for any kind of minimum standards Rivendell has for credentials in those areas.

Rep. Spaeth (100) stated that if "...substantially equally qualified..." was struck the present employees would have

Appropriations Subcommittee

Page 12

June 24, 1986

absolute preference. He suggested striking the word 'equally' and leave "...substantially qualified..." which would be approaching equally.

Dr. Simmons thought the bidders were being over protected. He urged the subcommittee to respond to the loyalties they might have to the employees, write the language that way, and as long as it was in the document the potential purchasers would know what they were walking into.

Mr. Melby commented that sounded like a lot of lawsuits in the offing.

Mr. Melvin said that obviously he would like recognition for the bargaining unit but he then asked about a preference with the proviso that it not jeopardize accreditation. A preference would recognize the value of trained employees and still leave the purchaser an out if it was needed.

Mr. Melby said he would like some kind of qualifier because it eliminated a lot of disputes. Something like 'substantially qualified' gives a lot of leeway for argument.

Mr. South said he would prefer the first option 'substantially qualified.'

Rep. Peck asked if it was acceptable in that form, to put Mr. Melvin's #9 after Rep. Addy's #8, and insert the word 'vacant' between similar and position in the last line.

All members of the subcommittee were in agreement on the suggestion.

Rep. Peck said there was a great deal of discussion about Rep. Winslow's amendment (Exhibit 3) dealing with the membership of the review committee.

Rep. Rehberg said he supported the amendment. He felt that if the word 'members' was changed to 'member' he saw no problem with the amendment.

Rep. Spaeth. proposed an amendment to the amendment. He asked to delete Item 3 in its entirety.

Rep. Rehberg opposed the suggestion of Rep. Spaeth. He said there were side effects to having the M.Y.T.C. in the city of Billings and they are not all good effects. There are certain responsibilities the city of Billings will inherit. He felt that somebody from the city of Billings should be on the review committee.

Appropriations Subcommittee
Page 13
June 24, 1986

Rep. Peck (210) noted that Item 3 should be deleted on a 3 to 1 vote.

Rep. Spaeth said he would like to see two members of the House and Senate, from the Yellowstone County area, be appointed in the usual manner for interim committees, a member from each party. He asked that this be inserted as Item 2 in place of the language there at present.

Rep. Miller moved that this be brought forward to the full committee.

All members of the subcommittee voted IN FAVOR of the motion.

Rep. Miller (300) said he would like to have a representative from the community of mental health centers on the review board. He suggested this be inserted as Item 3 of the Winslow amendment.

A voice vote CARRIED this motion.

Mr. South commented that the bill should be wary of using the word 'bid'. He said it talked about a 'bid process', but "...having an opportunity to purchase..." or "...submit a proposal..." might be a better way to go.

Rep. Rehberg said he would like to have included somewhere in the bill wording to the effect that the review committee could not show partiality or favoritism in making its decision. He said he had found that language in existing state statutes.

Rep. Rehberg went on to propose that under 4(b) there should be inserted "...the reviewing body may not show any partiality or favoritism in making its decision..."

Rep. Spaeth (400) asked about rewriting line 3 from "...have a chance..." striking the remainder of the sentence and inserting "...to submit a proposal to purchase..."

Rep. Spaeth moved that with those changes Rep. Winslow's handwritten amendment be adopted.

A voice vote CARRIED the motion.

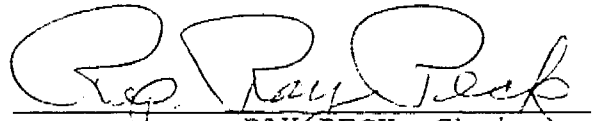
Rep. Peck noted that in the amendment presented by Rep. Addy that on page 3, line 24, after 'youth' the remainder of line 24 and line 25 in its entirety should be struck.

Appropriations Subcommittee
Page 14
June 24, 1986

Rep. Addy said that language was being struck and "...the buyer or any subsequent transferee must present reasonable documentation in compliance with this condition. Failure to provide may result..." would be inserted in lieu of that other language.

Rep. Peck said that with the changes made HB 36 was ready to return to the full committee in the morning. He asked the subcommittee members to meet in Room 104 at 8:00 a.m. on June 25, 1986. He would have someone from the Legislative Council there to go over HB 36 as amended with them.

The meeting was adjourned at 9:25 p.m.


RAY PECK, Chairman

Amendments to HB 36

Prepared by Mary MaCue for Rep. Rod Garcia

!. Page 3, line 2.

Following: "must be"

Strike: remainder of line 2 through line 3

Insert: "distributed as follows: (a) \$100,000 to the Billings
housing and community development block grant fund; (b) the
remainder to the state general fund."

Those employees who have many years of service with the state of Montana, and who wish to remain state workers are concerned that there will be no positions available to which they can apply. They also do not know if relocation assistance will be available if they are able to transfer to another state institution.

To summarize, there is widespread concern among MYTC employees that continuity of treatment will suffer, their careers and livelihoods are facing an uncertain future, and that their loyalty and devotion to providing an essential service has not been reciprocated. They have not received adequate consideration in the process, and fear that they will be forced to incur an unacceptable personal cost.

What is needed is meaningful recognition and commitment from the state of Montana that the MYTC employees on both the direct care and clinical staffs deserve a fair deal. They need to be assured of continued employment at the same or equivalent seniority, earnings and benefits.

The best way to accomplish this is by including in the authorizing language of H.B. 36 -- the following requirements as a term and condition of this sale:

(8) The buyer shall ensure the orderly and just transition of Montana Youth Treatment Center employees from state to corporate employment by continuing recognition of the current collective bargaining units, agents and agreements in effect at the time of the sale.

(9) Montana Youth Treatment Center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any retraining necessary to qualify for similar positions within the agency.

There was a similar situation in Butte when the public hospital was sold to a private corporation. The NLRB recognized the bargaining units that transferred with the sale. This will allow for the orderly and just transition of MYTC employees from state to corporate employment, and will ensure continuity of care and treatment necessary for a positive outcome for the youth at MYTC.

Thank you.

Amendments to HB 36, white (introduced) copy

Prepared by Mary McCue for Rep. Cal Winslow

1. Page 2, line 20

Strike: Subsection (3) in its entirety

Insert: "(3)(a) A review committee comprised of the following members shall review the proposals for purchase and recommend a purchaser to the board after meeting and discussing the factors set forth in subsection (b):

(i) the directors of the departments of institutions, health and environmental sciences, and social and rehabilitation services;

(ii) members of the house of representatives and senate from the districts where the Montana youth treatment center is located;

(iii) a representative of the city where the Montana youth treatment center is located, appointed by the city council; and

(iv) a representative of local health care professionals where the Montana youth treatment center is located, appointed by the governor.

(b) The review committee shall consider:

(i) the various proposals for purchase;

(ii) conditions of the sale of the Montana youth treatment center, including the quality of care to be provided, continued state responsibilities, treatment costs, accreditation standards, contractual relationships with the state and other governmental entities and the terms of those contracts, and other matters pertaining to the administration of the Montana Youth treatment center; and

(iii) other matters relating to the sale and subsequent services and costs of a privately operated facility.

AMENDMENTS TO HB 36, INTRODUCED COPY
Before the House Appropriations Committee

1. page 3, line 24
after "youth." strike the remainder of line 24, and strike line 25
in its entirety.

page 4, line 1, strike "license"

page 3, line 24 insert: The buyer or any subsequent transferee
must keep reasonable documentation of compliance with this
condition. Failure to comply with the provisions of this section
may result in the loss of hospital licensure.

2. page 17, line 17
after: "is"
delete: "filed by"
insert: delivered to

3. page 17, line 17
after "buyer"
insert: "."
delete: "with the Yellowstone County clerk and recorder."

VISITORS' - REGISTER

APPROPRIATIONS

COMMITTEE

BILL NO. 7-18-21-29-32-36-43 DATE June 24, 1986
and 46

SPONSOR _____

NAME (please print)	RESIDENCE REPRESENTING	SUPPORT	OPPOSE
Lynn W. Wold	Client Assistance Program	21	
Don Inghels	MT Chamber of Commerce	32 X	
George Olsen	MT Retail Assoc	37	
Glen Huntington	Labor Industry	32	
Ben H.	SRS	21	
LEE HICKEL	S.R.S.	21	
NORMA HARRIS	"	21	
RAY Hoffman	Health	21	
DENNIS M. TAYLOR	DDD/SRS	21	
Sandra Luchau	Dept. of Agriculture	21	
Keith Kelly	" " "	21	
Barbara K. Johnson	Labor & Industry		
Clyde McNeid	DEPAC	21	
Don Judge	Montana State AFL-CIO	32	
Steve Rennyhoff	CLF	21	
Bob Frazier	PFP	21	
Jeff McVitt	Montana Health Assn	36	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Appropriations Sub-COMMITTEE

BILL NO. H3 3L

DATE June 24 1986

SPONSOR ADDY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Rep. Lory opposed the motion by saying it is the only bargaining tool that we have. He pointed out that if state employees don't accept the pay freeze, HB 42 will die anyway.

Rep. Spaeth said that although he appreciates Rep. Lory's bill, one of the things when you go to a bargaining table, you don't take everything with you. He said that the union hasn't even bothered to come to the table, so why should we put anything on the table.

Chairman Bardanouve pointed out that one week of pay in the state of Montana will cost us \$7 million.

The question was called, and the motion to table CARRIED 14-5. (See roll call vote.)

ACTION ON HB 43: (155) Rep. Cobb, sponsor of HB 43, indicated to Rep. Bardanouve that he wanted the committee to hold HB 43 until the Senate acts on a similar bill.

Rep. Nathe moved that HB 43 be TABLED. The motion was seconded by Rep. Moore. Rep. Nathe pointed out that there is a big differential between this bill and the one that is in the Senate. He said that if we pay the cost of the early retirement right away, the figure is around \$3 million. Over a period of years, there will be no control. The question was called on the tabling motion, and it CARRIED on a voice vote.

ACTION ON HB 46: Rep. Winslow submitted proposed amendments to HB 46 (Exhibit A) and said this was the language that was worked out. Rep. Winslow moved to adopt the amendments. The motion was seconded by Rep. Moore.

Rep. Bardanouve said that if there needs to be a bill at all, this is what the parties have agreed to. The question was called, and the motion to adopt the amendments carried.

Rep. Winslow further moved that HB 46 DO PASS AS AMENDED. The motion was seconded by Rep. Moore, the question was called and the motion CARRIED 13-5. (See roll call vote.)

ACTION ON HB 36: Subcommittee amendments for committee consideration were submitted for review. (See Exhibit 1) Rep. Peck went over the amendments.

Rep. Winslow (425) thought that no one should be exempt from the certificate of need review. The legislature put the law on the books, and they should not exempt themselves from the process.

Rep. Moore said that a certificate of need had been filed and approved. The state would now transfer an approved certificate of need along with the facility.

Rep. Bardanouve said that the waiver would be only for a facility that was built and authorized by the legislature. That would preclude a private corporation from trying to be exempted from the review process.

RECESS: The meeting was recessed at 9:55 a.m.

(Tape 18:B:000)

RECONVENE: Chairman Bardanouve reconvened the meeting at 1:35 p.m. The committee continued reviewing and discussing the proposed amendments.

Rep. Rehberg expressed concern that there was no deadline as to when the review committee should reach a decision. He felt they should be working on a deadline and should be able to reach a decision in 60 days.

Rep. Nathe moved to insert an "up to 60 day time limit for the committee to act." Rep. Moore seconded the motion, and it CARRIED on a voice vote.

Rep. Winslow (115) said he thought that a representative of the city of Billings should be on the committee. He said this would not be a state project when this is done.

Rep. Miller disagreed. He felt that two representatives from Yellowstone County and a member from the local health care community would be sufficient.

After further discussion, Rep. Winslow moved to have a representative from Billings on the committee. The motion was seconded, and the question called. The motion FAILED on a voice vote. Rep. Winslow, Lory, Nathe, Rehberg and Moore voted in favor of the motion.

Rep. Hand moved to insert "in consultation with the Republican leadership of the House". The motion was seconded by Rep. Moore and CARRIED on a voice vote with Rep. Fritz voting no. (This amendment was made on page 3, subsection 3 of the bill.)

Rep. Nathe moved to amend page 2, following line 19 to include in subsection 3 (v) that a representative of the mental health care profession of Yellowstone County be appointed by the governor. The motion was seconded, the

question called and the motion CARRIED with Reps. Fritz and Moore voting no.

Rep. Moore moved that item (c) "The review committee may not show any partiality or favoritism in making its decision" be removed from the proposed amendments (Exhibit 1). The motion was seconded by Rep. Bradley.

Rep. Rehberg spoke against the motion to take out (c). This is language that was in the contract area of state government and it could apply in this particular case. (290)

Rep. Menahan said this implies that we are being partial, which we aren't and he objects to the language being included.

Rep. Winslow thinks that at least this is an attempt not to be partial because at this point, there has been partiality. There have been articles in the paper that indicate who they intend to sell to.

The question was called on the motion to delete item (c), page 2 from the proposed amendments. The motion FAILED due to a tie vote. (See roll call vote.) (340)

Rep. Spaeth said that since there was a point of controversy at this morning's meeting regarding item 6 on page 2 of the proposed amendments, there should be a motion one way or the other before the committee moves on. Rep. Hand moved to include this particular amendment. The motion was seconded by Rep. Winslow. It was Rep. Bradley's desire to add the following language as a part of Rep. Hand's motion to amend: "and the need to expedite transfer of the facility due to present deterioration of staff morale and quality of care provided". Rep. Moore seconded the motion to add this language. (This is an amendment to the amendment.) (400) She said this takes care of the second half of the certificate of need. The question was called, and the motion to amend by including item 6, page 2 CARRIED on a voice vote.

Rep. Spaeth continued to explain the amendments.

(Tape 19:A:000)

Rep. Moore moved to amend the proposed amendments, page 4, (9), line 3 by striking the word "retraining" and inserting in lieu thereof the word "training". The motion was seconded and CARRIED on a voice vote.

Rep. Spaeth moved that the subcommittee amendments for HB 36 that were amended at this meeting be adopted. The motion was seconded by Rep. Moore. The question was called, and the motion to adopt the amendments (Exhibit 1) CARRIED with Reps. Winslow and Fritz voting no.

Rep. Moore further moved that HB 36 DO PASS AS AMENDED. The motion was seconded by Rep. Swift. Before the vote was taken, Rep. Winslow commented that the committee needs to know that very soon, in fact immediately, we have to start looking at the entire continuum of care of these kids. We don't have it in Montana. The question was called, and the motion CARRIED unanimously. (See roll call vote.)

CONSIDERATION OF HB 28: AN ACT REVISING THE GENERAL RELIEF PROGRAM TO ELIMINATE REFERENCES TO WHETHER A POTENTIAL RECIPIENT IS ABLE-BODIED OR WITHIN A CERTAIN AGE CATEGORY; REPLACING SUCH CRITERIA WITH A DETERMINATION OF WHETHER THE PERSON IS UNEMPLOYABLE, EMPLOYABLE, OR VOLUNTARILY DESTITUTE; PROVIDING DEFINITIONS OF UNEMPLOYABLE AND EMPLOYABLE, RESTRICTING BENEFITS FOR THE EMPLOYABLE AND REQUIRING PARTICIPATION IN JOB TRAINING.

Rep. Dorothy Bradley, House District 79, sponsor of HB 28 (096) submitted a "grey" bill as it was amended in a joint committee of Human Services and a subcommittee on Appropriations. She advised the chairman that a public hearing was held at that time. (See Exhibit 2) She said the amendments don't change anything as far as philosophy and substance; they are simply for clarification purposes.

Rep. Bradley (128) said this bill is an effort to change the system with regard to criteria that determine whether a person gets assistance or not. Through this bill, Rep. Bradley is trying to refine the classification as to who gets state assistance and who does not. She wants to make it as tight as possible in order to stand up to a court challenge. Instead of making a classification based on "able-bodied" and according to different age classification, the bill's philosophy is to make a classification of "employable" vs. "unemployable." If the person is classified as "unemployable", the state would have an obligation to take care of that person indefinitely. But if the person is employable and presently out of a job, the state has only a temporary obligation of six months.

Rep. Bradley directed the committee's attention to the "grey" bill and further expounded on the changes made. Rep. Bradley pointed out that on page 12 of the "grey" bill, line 8, "NOVEMBER" should be deleted and "JULY" should be inserted. She said you don't start counting the six months until July 1st.

DAILY ROLL CALL

APPROPRIATIONS

COMMITTEE

49th Legislature Special Session III

Date June 25, 1986

NAME	PRESENT	ABSENT	EXCUSED
BARDANOUVE, Francis (Chairman)	✓		
DONALDSON, Gene (Vice Chairman)	✓		
BRADLEY, Dorothy	✓		
CONNELLY, Mary Ellen	✓		
ERNST, Gene	✓		
FRITZ, Harry	✓		
HAND, Bill	✓		
LORY, Earl	✓		
MANUEL, Rex	✓		
MENAHAN, William	✓		
MILLER, Ron	✓		
MOORE, Jack	✓		
NATHE, Dennis	✓		
PECK, Ray	✓		
QUILICI, Joe	✓		
REHBERG, Dennis	✓		
SPAETH, Gary	✓		
SWIFT, Bernie	✓		
THOFT, Bob	✓		
WINSLOW, Cal	✓		

STANDING COMMITTEE REPORT

June 25

19 36

Mr. Speaker: We, the committee on Appropriations

report House Bill 36

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Page 1 of 4

BARDANOUVE

Chairman

ALLOW SALE OF MONTANA YOUTH TREATMENT CENTER TO PRIVATE HEALTH CARE PROVIDER

BE AMENDED AS FOLLOWS:

1. Page 1, line 20.

Strike: ".*"

Insert: "; and"

2. Page 1.

Strike: lines 21 through 24 in their entirety

Insert: "WHEREAS, there are many nationally known groups that have shown interest in the purchase of the Montana Youth Treatment Center and all such groups should have a chance to submit a proposal to purchase.

THEREFORE, when an appropriate buyer can be found to offer quality care for Montana youth, the State of Montana will discontinue the state operation of the Montana Youth Treatment Center and hereby authorizes the Board of Land Commissioners to sell the facility as provided in this act."

3. Page 2, lines 8 through 11.

Following: "center. (1)" on line 8

Strike: the remainder of subsection (1) in its entirety

Insert: "The board of land commissioners is authorized to sell the Montana youth treatment center to a private health care provider who has documented experience in providing specialized adolescent psychiatric treatment that includes an educational component. The sale is made pursuant to 77-2-302, except that the 60-day public notice requirement of that section is waived."

4. Page 2, lines 12 through 15.

Strike: "For" on line 12 through "providers." on line 15

Insert: "The department of institutions shall advertise the proposed sale in at least one nationally distributed trade publication and shall notify in writing those health care providers that could potentially meet the conditions of the proposed sale. Interested parties

June 25, 1986

..... 19

must be allowed 60 days to submit proposals for purchase from the date the advertisement is published."

5. Page 2.

Following: line 19

Strike: subsection (3) in its entirety

Insert: "(3) To protect and indemnify the state against failure or refusal of a prospective purchaser to consummate the sale, each proposal must be accompanied by security in the amount of 2% of the appraised value contained in subsection (2). The security shall consist of cash, cashier's check, certified check, bank money order, or bank draft, in any case drawn on a bank located in the state of Montana, or a bond or bonds executed by a surety authorized to do business in the state of Montana. If a prospective purchaser fails or refuses to consummate the sale, the security is forfeited to the state and must be deposited in the general fund. The security must be returned to a prospective purchaser whose proposal is not accepted by the state.

(4) (a) A committee shall review the proposals for purchase and recommend a purchaser to the board of land commissioners after meeting and discussing the factors set forth in subsection (4) (b). The review committee must make such a recommendation within 60 days after close of advertising set forth in [section 2]. The committee is comprised of:

(i) the director of the department of institutions, who shall chair the committee;

(ii) the directors of the departments of health and environmental sciences and social and rehabilitation services;

(iii) two members of the senate, one from each party, to be appointed by the committee on committees, one of whom must represent a district in Yellowstone County and the other from a district representing a different county;

(iv) two members of the house of representatives, one from each party, appointed by the speaker in consultation with the republican leader of the house, one of whom must represent a district in Yellowstone County and the other from a district representing different county;

(v) a representative of the mental health care community from Yellowstone County, appointed by the governor; and

(vi) a representative, appointed by the governor, from an organization representing mental health centers.

(b) The review committee shall consider:

(i) various proposals for purchase;

June 25, 1986

19

(ii) conditions of the sale of the Montana youth treatment center, including the quality of care to be provided, continued state responsibilities, treatment costs, accreditation standards, contractual relationships with the state and other governmental entities and the terms of those contracts, and other matters pertaining to the administration of the Montana youth treatment center; and

(iii) other matters relating to the sale and subsequent services and costs of a privately operated facility.

(c) The review committee may not show any partiality or favoritism in making its decision."

Renumber: subsequent subsections

6. Page 3, line 8.

Following: "part 3."

Insert: "The review provided for in [section 2] and the need to expedite transfer of the facility to prevent deterioration of staff morale and quality of care provided, justifies the exemption of the sale and transfer of the Montana youth treatment center from the certificate of need review provision of Title 59, chapter 5, part 3."

7. Page 3, line 24 through line 1 of page 4.

Strike: "If" on line 24 of page 3 through "license." on line 1 of page 4.

Insert: "The buyer or any subsequent transferee shall keep reasonable documentation of compliance with this condition. Failure to comply with the provisions of this section may result in the loss of hospital licensure."

8. Page 4, line 2.

Strike: "hospital"

9. Page 4, line 3.

Following: "license"

Insert: "as a psychiatric hospital"

10. Page 4, line 4.

Following: "facility"

Insert: "as defined in 53-21-102(6)"

11. Page 4, lines 12 and 13.

Strike: "The" on line 12 through "conditions." on line 13

Insert: "The board of land commissioners may make an exception to these conditions in any subsequent sale or transfer."

12. Page 4, line 17.

June 25, 1986

..... 19

Following: "sale."

Insert: "The buyer and the state shall each commission an appraisal by a qualified appraiser at the time of sale. The appraised value is the average of the two appraisals."

13. Page 5, line 4.

Following: "patients"

Insert: "and shall receive no per diem reimbursement from the department of institutions for services provided to youth ordered to the facility by the courts. Such services become the financial responsibility of the buyer who may bill medicaid or private insurers when appropriate"

14. Page 5.

Following: line 7.

Insert: "(8) The buyer shall accept applications of all Montana youth treatment center employees who desire to continue employment with the purchaser. Among the substantially qualified applicants, present employees of the Montana youth treatment center must be given preference in hiring by the purchaser.

(9) Montana youth treatment center employees who wish to remain state employees shall be provided relocation assistance of up to \$1000 and any training necessary to qualify for similar vacant positions within the department of institutions."

15. Page 17, line 17.

Strike: "filed by"

Insert: "delivered to"

16. Page 17, lines 18 and 19.

Strike: "with" on line 17 through "recorder" on line 18.

ROLL CALL VOTE

APPROPRIATIONS

COMMITTEE

DATE June 25, 1986 BILL NO. HB 36 NUMBER _____

NAME	AYE	NAY
BARDANOUVE, Francis (Chairman)		✓
DONALDSON, Gene (Vice Chairman)		
BRADLEY, Dorothy	✓	
CONNELLY, Mary Ellen	✓	
ERNST, Gene	✓	
FRITZ, Harry	✓	
HAND, Bill	✓	
LORY, Earl		✓
MANUEL, Rex		✓
MENAHAN, William	✓	
MILLER, Ron		✓
MOORE, Jack	✓	
NATHE, Dennis		✓
PECK, Ray		
QUILICI, Joe	✓	
REHBERG, Dennis		✓
SPAETH, Gary		✓
SWIFT, Bernie		✓
THOFT, Bob	✓	
WINSLOW, Cal		✓

TALLY

9

9

Caroline Dykeman
Secretary

Rep. Francis Bardanouve
Chairman

MOTION: Rep. Moore moved that item (c), page 2 of the proposed
amendments be deleted. The motion was seconded by Rep.
Bradley and FAILED due to a tie vote.

ROLL CALL VOTE

APPROPRIATIONS

COMMITTEE

DATE June 25

BILL NO. 36

NUMBER _____

NAME	AYE	NAY
BARDANOUVE, Francis (Chairman)	✓	
DONALDSON, Gene (Vice Chairman)	✓	
BRADLEY, Dorothy	✓	
CONNELLY, Mary Ellen	✓	
ERNST, Gene	✓	
FRITZ, Harry	✓	
HAND, Bill	✓	
LORY, Earl	✓	
MANUEL, Rex	✓	
MENAHAN, William	✓	
MILLER, Ron	✓	
MOORE, Jack	✓	
NATHE, Dennis	✓	
PECK, Ray		
QUILICI, Joe	✓	
REHBERG, Dennis	✓	
SPAETH, Gary	✓	
SWIFT, Bernie	✓	
THOFT, Bob	✓	
WINSLOW, Cal	✓	

TALLY

19 _____

Caroline Dykeman
Secretary

Rep. Francis Bardanouve
Chairman

MOTION: Rep. Moore moved that HB 36 DO PASS AS AMENDED. The
motion was seconded by Rep. Swift and CARRIED 19-0.

HOUSE BILL 36
SUBCOMMITTEE AMENDMENTS FOR COMMITTEE CONSIDERATION

Afternoon Meeting, Appropriations Committee June 25, 1986

1. Page 1, line 20.

Strike: "."

Insert: "; and"

2. Page 1.

Strike: lines 21 through 24 in their entirety

Insert: "WHEREAS, there are many nationally known groups that

have shown interest in the purchase of the Montana Youth Treatment Center and all such groups should have a chance to submit a proposal to purchase.

THEREFORE, when an appropriate buyer can be found to offer quality care for Montana youth, the State of Montana will discontinue the state operation of the Montana Youth Treatment Center and hereby authorizes the Board of Land Commissioners to sell the facility as provided in this act."

3. Page 2, lines 8 through 11.

Following: "center. (1)" on line 8

Strike: the remainder of subsection (1) in its entirety

Insert: "The board of land commissioners is authorized to sell the Montana youth treatment center to a private health care provider who has documented experience in providing specialized adolescent psychiatric treatment that includes an educational component. The sale is made pursuant to 77-3-302, except that the 60-day public notice requirement of that section is waived."

4. Page 2, lines 12 through 15.

Strike: "For" on line 12 through "providers." on line 15

Insert: "The department of institutions shall advertise the proposed sale in at least one nationally distributed trade publication and shall notify in writing those health care providers that could potentially meet the conditions of the proposed sale. Interested parties must be allowed 60 days to submit proposals for purchase from the date the advertisement is published."

5. Page 2.

Following: line 19

Strike: subsection (3) in its entirety

Insert: "(3) To protect and indemnify the state against failure or refusal of a prospective purchaser to consummate the sale, each proposal must be accompanied by security in the amount of 2% of the appraised value contained in subsection (2). The security shall consist of cash, cashier's check, certified check, bank money order, or bank draft, in any case drawn on a bank

Afternoon, June 25, 1986

located in the state of Montana, or a bond or bonds executed by a surety authorized to do business in the state of Montana. If a prospective purchaser fails or refuses to consummate the sale, the security is forfeited to the state and must be deposited in the general fund. The security must be returned to a prospective purchaser whose proposal is not accepted by the state.

(4)(a) A review committee comprised of the following members shall review the proposals for purchase and recommend a purchaser to the board of land commissioners after meeting and discussing the factors set forth in subsection (4)(b):

(i) The director of the department of institutions, who shall chair the committee;

(ii) the directors of the departments of health and environmental sciences and social and rehabilitation services;

(iii) two members of the senate to be appointed by the committee on committees, one of whom must represent a district in Yellowstone County and the other from a district representing a different county;

(iv) two members of the house of representatives appointed by the speaker, *one of whom must represent a district in Yellowstone County and the other from a district representing different county;

(v) a representative of local health care professionals from Yellowstone County, appointed by the governor; and

(vi) a representative, appointed by the governor, from an organization representing mental health centers.

(b) The review committee shall consider:

(i) various proposals for purchase;

(ii) conditions of the sale of the Montana youth treatment center, including the quality of care to be provided, continued state responsibilities, treatment costs, accreditation standards, contractual relationships with the state and other governmental entities and the terms of those contracts, and other matters pertaining to the administration of the Montana youth treatment center; and

(iii) other matters relating to the sale and subsequent services and costs of a privately operated facility.

(c) The review committee may not show any partiality or favoritism in making its decision."

Renumber: subsequent subsections

6. Page 3, line 8.

Following: "part 3."

Insert: "The review provided for in [section 2] justifies the exemption of the sale and transfer of the Montana

youth treatment center from the certificate of need review provision of Title 50, chapter 5, part 3."

7. Page 3, line 24 through line 1 of page 4.

Strike: "If" on line 24 of page 3 through "license." on line 1 of page 4.

Insert: "The buyer or any subsequent transferee shall keep reasonable documentation of compliance with this condition. Failure to comply with the provisions of this section may result in the loss of hospital licensure."

8. Page 4, line 2.

Strike: "hospital"

9. Page 4, line 3.

Following: "license"

Insert: "as a psychiatric hospital"

10. Page 4, line 4.

Following: "facility"

Insert: "as defined in 53-21-102(6)"

11. Page 4, lines 12 and 13.

Strike: "The" on line 12 through "conditions." on line 13

Insert: "The board of land commissioners may make an exception to these conditions in any subsequent sale or transfer."

12. Page 4, line 17.

Following: "sale."

Insert: "The buyer and the state shall each commission an appraisal by a qualified appraiser at the time of sale. The appraised value is the average of the two appraisals."

13. Page 5, line 4.

Following: "patients"

Insert: "and shall receive no per diem reimbursement from the department of institutions for services provided to youth ordered to the facility by the courts. Such services become the financial responsibility of the buyer who may bill medicaid or private insurers when appropriate"

14. Page 5.

Following: line 7.

Insert: "(8) "The buyer shall accept applications of all Montana youth treatment center employees who desire to continue employment with the purchaser. Among the substantially qualified applicants, present employees of the Montana youth treatment center must be given preference in hiring by the purchaser."

Afternoon, June 25, 1986

(9) Montana youth treatment center employees who wish to remain state employees shall be provided relocation assistance of up to \$1000 and any retraining necessary to qualify for similar vacant positions within the department of institutions."

15. Page 17, line 17.

Strike: "filed by"

Insert: "delivered to"

16. Page 17, lines 18 and 19.

Strike: "with" on line 17 through "recorder" on line 18.

a:hb36.com, lee AT

STATE LAW LIBRARY
JUL 21 1986
OF MONTANA

MONTANA STATE SENATE
FINANCE AND CLAIMS

49th Legislature, Third Special Session - 1986

COMMITTEE MEMBERS: Senator Pat Regan, Chairman
 Senator Judy Jacobson, V. Chairman
 Senator Jack Haffey, V. Chairman
 Senator Gary Aklestad
 Senator Esther Bengtson
 Senator Paul Boylan
 Senator Chris Christiaens
 Senator Delwyn Gage
 Senator Swede Hammond
 Senator Matt Hims1
 Senator Tom Keating
 Senator Leo Lane
 Senator Dick Manning
 Senator Ed Smith
 Senator Larry Stimatz
 Senator Pete Story

COMMITTEE SECRETARY: Sylvia Kinsey

BOOK: 1 of 1

INCLUSIVE DATES: June 16, 1986 - July 1, 1986

FORTY-NINTH _____ LEGISLATIVE SESSION
THIRD SPECIAL
COMMITTEE ON FINANCE AND CLAIMS

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
1	6/21	6/21	6/21				6/21		
2	6/25	6/25	6/25				6/25		
6	6/21	6/21	6/21				6/21		
7	6/27	6/27	6/27				6/27		
10	6/25	6/25	6/25				6/25		
15	6/21	6/21	6/21				6/21		
21	6/27	6/27	6/27				6/27		
22	6/25	6/25	6/25				6/25		
23	6/25	6/25	6/25				6/25		
24	6/25	6/25	6/25				6/25		
25	6/25	6/25	6/25				6/25		
26	6/25	6/25	6/25				6/25		
30	6/20	6/23-6/24	6/24					6/24	
31	6/25	6/25-6/26	6/27					6/27	
36	6/27	6/27	6/27				6/27		
37	6/26	6/26	6/26					6/26	

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

June 27, 1986
A.M.

The eighth meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol. Senator Regan, Chairman, called the meeting to order and following roll call, with a quorum present said we would hear House Bills 7, 21 and 36.

ROLL CALL: All members present except Senator's Smith and Keating who were excused.

CONSIDERATION OF HOUSE BILL 36: Representative Addy, House District 94, Billings and chief sponsor of House Bill 36 said this bill would discontinue state operation of the Montana Youth Center and authorize sale of the property. This is a big new idea. We are talking about privatization of institutional care that the state of Montana delivers to adolescents who are in need of psychiatric care. It has been a long history of establishing a Youth Treatment Center in Billings. Originally the Center was authorized in 1981 with more funds provided in 1983, it is a facility that we have always had a difficult time running as a state. Let me just say the primary problem we have had is finding qualified psychologists, especially who understand adolescence psychiatry who would staff the Youth Treatment Center. The problem has been addressed in the form of contracts with local psychiatric people in the Billings community for the last year to the tune of about \$200,000, for what has amounted to be 1 FTE psychiatrist. At the same time that we have been unable to find psychiatrists to staff the center, we have been unable to qualify to make the center eligible for medicaid payments so the drain on the general fund is about \$2.4 million a year if my memory serves me correctly. This proposal would authorize the Board of Land Commissioners, pursuant to a specific procedure to sell this facility. I am sure that many of you may have met some of the representatives from Rivendell of America and Rivendell of Montana who have been in town. Let me tell you how this whole idea revolved. These people were interested in establishing adolescent psychiatric services in Salt Lake, they have just recently been approved for a 40 bed facility in the Butte area, and as that certificate of need review has progressing, the Department of Institutions began to ask them about the problems the state was having running the facility in Billings. As it turned out the amount of money that the state has into the facility, \$3.118 million is very close to what an appraisal comes out on the facility which is \$3.275 million, and eventually the question was put to them--if we were to insist upon a minimum sale price--we're just talking minimum sale price now--with \$3.275 million, would that be a realistic proposal for a private health care provider to come in and take over responsibilities for the state. The answer came back from those people--yes, that is very realistic. At the same time they would be able to provide the 2 full time equivalent

adolescent psychiatrists that are needed for medicaid eligibility which brings me right down to where we are at today with this bill. First, we can provide better quality care than we are providing now, and I hope that will always be the number one objective of this bill-- we will provide better quality care than we are providing now. We will do it at a lesser cost than it is costing us right now. If you look at the fiscal note, we will return almost a million in general fund money to the general money to the general fund if we are able to privatize this institution this year. We will return it to the general fund this year, and third--we will return \$3.2 million that we have invested in the facility--at least \$3.2 million to the general fund as well. So, we are talking about better care for a lesser cost and returning \$4 million to the general fund. Now--there is one other overriding concern when we talk about sale, and that is to consummate the transfer in an expeditious manner. Let me tell you why that is important. Staff morale is not exactly good at the center right now, and in fact I have been told by some of the people on the staff saying it is very frustrating to work in a center where you are supposed to be delivering high quality psychiatric care to adolescents who need it very badly and you don't have the psychiatrist to do it, the staff is very frustrated. Once they know a sale is going to go through morale may tend to go down, even further. You are going to have a more difficult time than we're having now, staffing the facility and the stability of the environment that we provide for patients at the facility may also deteriorate. So, the bill authorizes the sale and then it exempts the sale from the certificate of need review that would normally be followed in the event of transfer of a health care facility. The reason that we exempt it, once again, is to provide an expeditious transfer. I hope you won't be alarmed at that exemption in this case. First of all, we have already determined that the beds are needed, and secondly we have substituted a review committee in this bill for the kind of review that would otherwise take place as to who will be running the facility, so the bill provides that the proposal to sell the institution will be advertised for a 60 day period of time, the review committee will have 60 days--no more than 60 days to select a buyer from those who submit proposals, and it will allow for an expeditious transfer. I'd just like to go through the membership of this committee because it was one of the more significant issues that was addressed in the House Appropriations Committee. The Director of the Department of Institutions will be the Chairman of the committee, the Director of SRS, the Director of Health and Environmental Sciences will also be on the committee and then 2 members from the Senate to be selected in the usual manner--1 from Yellowstone County and one from another county. 2 members from the House to be selected in the usual manner, 1 from Yellowstone County and one from outside of Yellowstone County. A representative of the Mental Health Care community from Yellowstone County appointed by the Governor, a representative appointed by the

Governor representing Mental Health Centers and these people will take these proposals and look at them--that's 9 members. The sale price that is set--I want to stress this just one more time--the sale price that is stated in the bill is the minimum only. It is possible that more money would be offered by one health care provider or another, but I once again hope that we will keep quality of treatment that can be provided by anybody that submits a proposal foremost. So once again, the bill is intended to provide better quality care than we are providing now at a lesser cost and return \$4 million to the general fund. I think we have gone past the point of no return. I think the decision to sell the facility is already upon us. The absolute worse possibility I can think of right now is for the state of Montana to decide to keep the facility and try to operate it without the proper professional services that are needed, staff morale will continue to deteriorate and the treatment environment will continue to suffer. Madam Chairman, that's House Bill 36, I will be available for questions. I know there are proponents and maybe an opponent.

PROPOSERS FOR HOUSE BILL 36: Steve Waldron, representing the Community Mental Health Centers: Our major concern when the issue of privatizing the Montana Youth Center--we have 2 concerns--one is that the facility would go to an organization or corporation that has a demonstrated ability to operate a psychiatric unit for adolescents. It takes a good deal of management expertise to operate this type of intensive psychiatric hospital and we are really concerned that whoever operates the hospital has a demonstrated ability to provide that sort of expertise. The second and even more major consideration is that the provider of the services have a demonstrated ability to offer quality psychiatric services to adolescents. Both of those issues are addressed in the bill, and that being the case we strongly endorse House Bill 36 and urge you to adopt it. I would however, like to point out that while you are dealing with a critical need here of acute care for severely disturbed kids that we have some intermediate problems between the families, some group homes and this intense care. There simply are not enough services--foster care residential services--out of home services--for children in the state and at some point in the near future the people involved, youth care providers, mental health professionals, etc. are going to request that you address this critical need--this critical lack in the need for a continuum of quality care for emotionally disturbed kids in the state. Thank you.

Carroll South, Director, Department of Institutions: As you can see, this legislation was introduced at our request. It is no secret that we've had many problems at the Montana Youth Treatment Center, and we've come to the conclusion that it is in the best interest of the state and the best interest of the patients at the Center to attempt to sell the facility to a firm that specializes in that type of treatment. The bill, as you have it before you, represents the conditions of the sale and other

elements that would be required, once the facility is sold. I think it is important to note that we have found a health care provider that is willing to meet all the conditions you have in the bill. In fact, that is the only reason that we are considering a bill during this short special session, is that we at least know that there is one health care provider in this nation that is willing to meet all the conditions that you have before you in the bill and provide the kind of treatment that we think is vital. Without going into a lot of detail, relative to the problems that we have had at the center, I think it is safe to say that the major impediment to any kind of certification by the federal government is our inability to recruit psychiatrists. I think as of today--or at least as of next week--we will probably be on our 7th psychiatrist since we've opened April 30, 1985, and that has not come cheap. In an effort to just employ one full time psychiatrist we will have spent this fiscal year nearly \$200,000, and we were budgeted for \$74,000. Of course that has compounded all of the other problems that we have had at the center because we have had to find funding from other areas to cover those excess costs for psychiatric coverage. I know time is short and this is a critical bill for this department and so I think other than be able to answer questions later on, I will just simply ask you and plead with you to pass this legislation to authorize the sale of the center. Thank you.

Joy McGrath, representing the Mental Health Association of Montana: I am here as an advocate for the bill, an advocate for mentally ill, and emotionally disturbed children and youth and adolescents and adults in our state of Montana. For a long time we have had concern for children and youth and the treatment of those persons in Montana, and I've had a lot of concern about the kind of treatment these kids are getting in the Youth Treatment Center in Billings. We feel that the sale of this facility to the type of provider that is identified in the bill, meeting those qualifications and meeting the conditions of the agreement that they are to make with the state in selling this facility, that this will provide quality treatment to our adolescents at that facility. We are looking at treatment as the issue here, not simply the sale of the facility to bring more money into the general fund which would certainly help right now, but we do need that viable linkage between residential care and the community, whether it is back to their homes or into community settings, and money eventually will have to go to that. Right now we are looking at the treatment of these kids as the issue, and this sale will achieve that goal. Our group, and our chapter in Billings will continue to be a watch dog on the kind of program that's there and continue to be involved with this organization. There is an amendment made on the floor of the House to study the feasibility of selling other facilities that the Department of Institutions manages, and while we think that is probably a very good idea, I think we would have to express a little bit of concern as to a Department that has a very small staff--administration

staff and is taking cuts as everyone else is--how they can afford to do that without sacrificing treatment in other aspects of the program. I would just like to have you keep that in mind. We are taking other cuts and adding more responsibilities it may be a good idea for some of these other facilities, but the cost of doing the study may be a problem for this department.

Carroll South: In my haste to finish my testimony, I neglected to introduce and ask if you would allow testimony of a representative of the firm that has met with all of these conditions. Is that permissible.

Senator Regan: Certainly, it is permissible, but do I have your assurance that they simply don't have a lock on this. This bill purportedly throws the bidding process open and that all proposals will receive equal treatment, and I have some hesitation--or some concern, while I am sure that it is a very well respected group that they not receive special treatment just because they are opening another facility in Butte, and that everyone is treated fairly in this sale, and I want your assurance that they will have it.

Carroll South: Madam Chairperson, you have my assurance on that. Let me say one more time that the only reason that we have this bill here is because Rivendell Corporation has offered to purchase the facility and meet all the conditions in the bill. So, whether anyone else in the nation will, or not, at least we know there is one provider that will.

Senator Regan: One other question while you are here. Are the conditions of the sale broad enough so they are not written exclusively to squeeze out other bids.

Carroll South: Based on what we know about the conditions now there would probably be between 8 and 12 firms nationwide.

June Johnson, Rivendell: I appreciate the opportunity to appear before you today and I'll be brief. I do represent the applicant, and I suppose you might call us Rivendell of Montana, Inc. as well as the parent company Rivendell of America Inc. for whom I am a member of senior management on the Board of Directors. I would like to state, as Mr. South mentioned, that Rivendell of Montana was approached for consultation purposes relative to the issue of privatization of the Montana Youth Treatment Center some months ago and their efforts to determine what sorts of issues might have to be addressed if indeed, privatization was an option for the state, and might be worth bringing forward to this Legislature as an alternative to some of the problems that existed there. As such, we were happy to offer some of the expertise that we have. Some of the questions had to do with reimbursement issues, accreditation issues, quality of care issues and special issues dealing with professional expertise and dealing with this particular type of patient population

which is a majority population of particularly disturbed youngsters most of them being court committed. We were happy to do that. We have indeed done that without any expectations for compensation in that regard, I would like to make that clear to this committee. We volunteered those efforts regardless of whether Rivendell of Montana is chosen as the final provider in this proceeding. Rivendell of Montana would like for you to know and realize that we agree that, at this point in time, for the problems to be resolved and for Montana Treatment Center to in fact become the positive therapeutic alternative that should be for children in this state. This is the correct and appropriate option at this time. We would encourage you indeed to move forward with this. Obviously Rivendell of Montana Inc. would certainly like to be the provider in this case, we also understand that there should be an open bidding system. We encourage that, we are prepared to deal with that, we compete with other health care providers throughout the nation every day in order to build our facilities. As most of you are aware, we have been working in this state for the past 3 years. We have attempted to build a free standing 48 bed facility for children and adolescents. We were finally successful just recently in obtaining a certificate of need to build such a facility in Butte. It would be a similar facility that we would expect-- a similar treatment program that we would expect to run at Billings if indeed we were successful in becoming the treatment provider here. Again, we realize, and we encourage that it be an open bidding system. Rivendell of Montana does not in any way, expect preferential treatment. We would expect you to look long and hard at the issues. We expect to be viewed as any other applicant and stand prepared to answer your questions in that regard, regarding quality care, accreditation, any other issue, and look forward to that. I would be prepared to answer any questions if the committee has them.

There were no further proponents, no opponents, and Senator Regan asked if there were questions from the committee.

Senator Christiaens: I guess I have a question to ask Mr. South first. In the average number of patients at the hospital during the past 11 months, apparently it has been approximately 40 and 60 bed facilities. I am assuming that there are guarantees that 40 beds will remain for state use?

Carroll South: Yes. As a back up position, if this bill doesn't pass we'll either promulgate rules--well, I guess this late in the Legislative session we will promulgate rules to maintain the population of 40. Under the current configuration we can not handle 60 patients there, in fact 40 is really stretching it.

Senator Christiaens: Specifically on page 7 and line 8, that is a condition of the sale?

Carroll South: yes.

Senator Christiaens: A follow up, then. Will the care of the patients at this facility if Rivendell is the successful bidder, make it possible for those youths that are currently going out of state for treatment to be treated in the state?

Carroll South: I guess I can't answer that definitively. There will be a difference in the way a private corporation operates that facility. Now it takes a court order to get in there. A finding of serious mental illness--there is no voluntary admissions, so I think that has impeded bringing out of state kids back, I think because of that court process. Any private provider will also, I think provide voluntary admissions for the additional beds. So, I suspect that there will be more of a likelihood that they will bring kids back from out of state than there is now, if the state continues to operate it.

Senator Christiaens: The major reason that those patients are currently going out of the state is the type of care that is available out of state rather than the fact that they could possibly stay here if that quality was available here. Am I not correct?

Carroll South: I think someone from the Foster Care area would have to respond specifically to that. I think in many cases they're sent out of state for different reasons. This will still be a very intensive psychiatric treatment unit, and I don't believe that all of those kids that are now being sent out of state would be justified in admission to that facility under any circumstances, but perhaps some.

Senator Christiaens: My last question--How will the costs compare for treatment under privatization or have you talked about that versus under the state--if they are in charge of the state.

Carroll South: Our interest, of course, is in the 40 beds set aside for the patients that are ordered there by the courts. If you take the Center's budget for '87 and divide it by 40 you will have a cost per day of \$172, but the fact is that if we were going to achieve certification and hire a second psychiatrist, assuming we were that fortunate, the cost per day would probably be close to \$200. That is all general fund, because as long as we're not certified the entire \$200 is general fund. We're comparing that to a private facility at a billable rate of in excess of \$300, but a medicaid allowable rate of 240 to 250 only 1/3 of which is general fund because of the ratio between federal and general fund. So, we would argue that it's cheaper for the state to have a private facility that's medicaid certified than to continue to occupy a state institution that is not.

Senator Aklestad: Carroll, is there assurance--well, I know there isn't, but how about the federal funds that make up

approximately 2/3 -- even though we have less general funds in that--if those federal monies were to dry up, how feasible would it be for this--for any organization to keep operating, and would there be the possibility spots for our people?

Carroll South: That's always a risk because the federal government can change policies at any time, but let me just tell you if the federal government does change their policy on reimbursing for those kinds of facilities the state will be short about 8 or \$9 million anyway in the other institutions, so we'll have some serious problems department wide, if in fact that ever becomes federal government policy. As I understand now, medicaid reimbursement for psychiatric coverage for individuals 21 and under is a state optional policy, and of course Montana has opted to provide that.

Senator Hammond: For either you Carroll or Kelly Addy, when we sell real property, does the income from that property always go into the general fund? Is that the usual situation?

Mr. South: Let me just tell you that this building was built with the proceeds from the Long Range Building bond sale. We have a legal opinion that because the building itself is not an obligation on the bond that we could do anything we wished with the proceeds of the sale, and of course we obviously chose to deposit it in the general fund because of the budget short fall that we have.

Senator Bengtson: Carroll, what is the history of the court appointed people to the Youth Evaluation Center? Do you get 40 or do you have a request for more?

Carroll South: I think we have 45 there now, so we have not have tried to institute any kind of a cap as yet, I think if this bill fails we will simply have to. We'll have to try to cap it at 40.

Senator Bengtson: In addition to this, and this is not really related to the sale of the facility--is there a demand for more court appointed slots? Will there be competition for those court appointed slots? Between Billings and Butte for those court appointments.

Carroll South: I guess I can't really speak for what Rivendell will do in Butte, but I know in other states in which they operate, they do agree to take court commitments, so, I suspect if we took court commitments, or if they took court commitments in Butte and if we took court commitments in Billings with whoever purchases this facility, we would probably have an east-west situation which wouldn't be all that bad quite frankly, because individuals from the western part of the state could go to Butte. But I don't think there is going to be any shortage of court ordered admissions, if that is what you are referring to. There never has been in the past.

Our biggest problem is controlling court ordered admissions, not soliciting them.

Senator Bengtson: On page 8, line 24, I'm trying to understand the language--maybe Carroll you can answer it. The board of Land Commissioners may make an exception to these conditions at any subsequent sale or transfer. What are you getting at?

Representative Kelly Addy: That language was clarified by the House Appropriations committee. The idea here is that perhaps whoever comes in as a health care provider would want to build a new facility and start from scratch 5 or 10 or 15 years down the road--in that case we don't want to bind someone who comes in to buy that property to run an adolescent psychiatric hospital at this facility. So, if that were the case, the Board of Land Commissioners--not on this sale, but on a subsequent sale, could make exceptions to the conditions to the sale.

Senator Bengtson: On the sale of it. Is there any stipulation that Billings gets any money for the land that it is on or what sort of an agreement?

Representative Addy: That is a question that was raised both in the committee and on the floor in the House, Senator. I did not support people who were trying to return, I think \$100,000 to the city of Billings or to the block grant program in Billings. The deal with the state. I am sure you are aware--in fact I know that you are very aware that the facility was originally going to be built in Anaconda. The city of Billings said we have some free land down here, if you will locate this facility in Billings, and sure enough the facility ended up down there. The city of Billings got a \$2.25 million payroll for the facility. They got a \$3 million construction project located in Billings, those two things are still in Billings. The state isn't going back on its deal one little bit, and in addition if this is privatized the land will go on the property tax roles in Yellowstone County. So, with those three considerations in mind both the House Appropriations Committee and the committee of the whole in the House voted overwhelmingly not to return any money to Billings. I would just like to make the other point too. We are very happy to have this facility in Billings, and I would hate to make a precedent that you have to pay us something later if you open a facility here now.

Senator Bengtson: I understood that there was a special improvement district money involved with that.

Representative Addy: \$103,000 was required for a special improvement district because the city services to that property were not adequate to service a facility of this size. The state has paid that--one of the conditions of the sale is that that be reimbursed to the state in addition to the \$3.275 million which is the appraised full market value of the property. So actually we are talking about 3.378.

Senator Regan: Are there any other questions. We have two other bills and I don't really mean to shut anyone off, but I'd like to address those also within the hour. Are there any other questions. Seeing none, would you care to close.

Representative Addy: Very briefly. Thanks for your time this morning. I want to assure the committee that the bidding process is open under the terms of this bill. The House did a number of things. On page 6, line 1 you will see language to the effect that the review committee may not show any partiality or favoritism in making its decision. That's an admonition to the committee. Secondly--originally there was a 30 day time frame for anybody that wanted to submit a proposal. It was felt that that might eliminate some people who might otherwise be very serious contenders for this facility that was stretched out to 60 days. Thirdly, the condition of sale which begin on page 7 and line 3 are generic conditions for sale that make it very clear that anybody who comes into the state of Montana to run this facility will be a health care provider of last resort. They will provide specialized adolescence health care at this facility and they will continue to do that and only that at that facility unless they want to risk loss of their hospital license in Montana. (Fact sheets attached as exhibits, given by Addy)

Senator Regan: Thank you, and this committee wishes to thank the people who testified, and this closes the hearing on House Bill 36.

CONSIDERATION OF HOUSE BILL 21: Representative Bardanouve, chief sponsor of the bill gave an explanation of the bill and said the law is that if budget amendments come in between sessions they will be presented to the Fiscal Analyst and Finance for review and approval or rejection. However, when the Legislature is in session the budget amendment must be presented to the Legislature for approval.

Representative Bardanouve's complete explanation of the budget amendment bill is attached as exhibit 1, pages 1 through 6.

There were no proponents, no opponents, and Senator Regan asked if there were questions from the committee.

Senator Regan asked if there were other proponents to House Bill 21. There were none, no opponents, and she then asked if there were questions from the committee, but before we start the questions I would like to direct a question to our researcher. Curt, you've reviewed these budget amendments? Do they meet the criteria?

Curt Nichols, Legislative Fiscal Analyst: They don't have to meet the criteria when you are in session. We have reviewed them to see if there is any general fund impact and we can find none.

Senator Stimatz: On page 3, line 13, that group insurance item. That 8,302,000. Where do I find a report on that?

Representative Bardanouve: You would have to ask the Legislative Auditor and they would tell you which report. This is to comply with their recommendations.

Senator Stimatz: Did they have the money in the wrong fund or something like that?

Representative Bardanouve: I haven't had time to read that recommendation in their reports. But as to how it is being handled now, they raised some questions about whether it is proper what they are doing now, and this will do what the Legislative Auditors say should be done. It does not increase any money, it just --

Senator Stimatz: This money belongs to someone else?

Representative Bardanouve: No, it belongs to the University employees in their self insurance program.

Senator Stimatz: I just wanted to be sure that we got it straight.

Representative Bardanouve said he closed and thanked the committee for their attention.

Senator Regan: We need a copy of your explanation. (This is the exhibit 1 reference) After we have heard the third bill we will have to meet again today. It will be at the call of the chair, probably after one when we recess.

The meeting was recessed.

June 27 p.m. meeting

The Chairman, Senator Regan called the meeting back to attention and said while the committee is waiting for Representative Winslow we will take executive action on these other bills.

DISPOSITION OF HOUSE BILL 21: This was the budget amendment bill that Representative Bardanouve presented.

Senator Hammond moved House Bill 21 be concurred in.

Voted, passed. Senator Regan to carry the bill.

DISPOSITION OF HOUSE BILL 36: MOTION by Senator Keating that House Bill 36, the Youth Treatment bill, be concurred in. Voted, passed, Senator Keating to carry the bill.

ROLL CALL

SENATE FINANCE AND CLAIMS

COMMITTEE

49th LEGISLATIVE SESSION - - 185

Date 6-27-86

AM

NAME	PRESENT	ABSENT	EXCUSED
SENATOR REGAN	✓		
SENATOR HAFTEY	✓		
SENATOR JACOBSON	✓		
SENATOR AKLESTAD	✓		
SENATOR HAMMOND	✓		
SENATOR LANE	✓		
SENATOR CHRISTIAENS	✓		
SENATOR GAGE	✓		
SENATOR HIMSL	✓		
SENATOR STIMATZ	✓		
SENATOR BOYLAN	✓		
SENATOR STORY	✓		
SENATOR SMITH		✓	
SENATOR MANNING (Dick)	✓		
SENATOR BENGTON	✓		
SENATOR KEATING		✓	

6-27-86
11:41
36
2
7

DATE 6-27

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

House Bill 36 as introduced:

1. Authorizes the Department of Institutions to discontinue the operation of the Montana Youth Treatment Center as a state institution.
2. Repeals all statutory references to the Center as a state institution.
3. Authorizes the Board of Land Commissioners to receive proposals from interested health care providers for a period of 60 days following the bill's passage and approval.
4. Requires that the Department heads of Institutions, SRS and Health along with two members of the House, two members of the Senate, one member of the Billings Mental Health community, and one member representing the state's mental health centers review all proposals received during the 60 day period and recommend a purchaser to the Board.
5. Authorizes the Board to sell the Center to a private health care provider that specializes in adolescent psychiatric treatment.
6. The sale price must be no less than the Center's appraised value of \$3,275,000, plus an additional \$103,000 to reimburse the State for a prepaid Special Improvement District obligation.
7. Requires that the sale proceeds be deposited in the state's General Fund.
8. Exempts the transfer of ownership from the Certificate of Need process.
9. Requires that the purchaser provide a minimum of 40 beds for youths ordered to the facility by the courts. Failure to comply with this provision may result in the loss of the facilities licensure.
10. Requires that the facility remain a mental health facility, and therefore subject to the Mental Health Act and review by the Board of Visitors.
11. Requires that all conditions imposed on the purchaser remain conditions on any future sale, unless the Board of Land Commissioners agrees to modify the conditions.
12. Requires that if the facility is sold by the purchaser, the State has first option to purchase the facility at its appraised value at the time of the sale.
13. Requires that the purchaser assume the obligations and responsibilities for those youth who are now committed by the courts to the Department of Institutions for placement at the Montana Youth Treatment Center.
14. Requires that the purchaser demonstrate its ability to consistently meet and maintain JCAH accreditation and Medicaid certification standards.
15. Requires that the purchaser provide services to Medicaid eligible and indigent patients.
16. Requires that the purchaser accept emergency psychiatric admissions.
17. Provides reasonable job protection for Center employees.

History and Current Status
Montana Youth Treatment Center

1. The 1981 and 1983 Legislatures appropriated funding to construct the Center.
2. Approximately \$3,118,000 has been expended on construction of the facility and on grounds improvements. In addition, a Special Improvement District obligation has been retired by the State.
3. The City of Billings donated the land on which the Center was constructed.
4. The Center opened on April 30, 1985 with the transfer of 24 patients from Montana State Hospital.
5. The Center has a maximum capacity of 60 patients and an optimal capacity of 40.
6. The Center contains ten 4-bedrooms, four 3-bedrooms, four 2-bedrooms, and six quiet rooms.
7. The Center's average daily population during the first 11 months of FY 1986 has been approximately 40 patients.
8. The Center's FY 1987 appropriation is \$2,511,707, almost all of which is General Fund.
9. Approximately 86.4 FTE's are currently on the Center's payroll.
10. The Center is Montana's only state operated hospital facility for the psychiatric treatment of emotionally disturbed adolescents.
11. The Center is provisionally licensed as a psychiatric hospital.
12. The Center is not certified for Medicaid reimbursement.
13. Voluntary admissions to the Center are prohibited by law.
14. All admissions are by court order based on a finding of serious mental illness.
15. Adolescents must be at least 12 years of age, but less than 18 years of age to be admitted to the Center.
16. If the Center is not sold, or if a sale is delayed, the Department will request the Legislature to statutorily cap the Center's population at 40 patients.

STANDING COMMITTEE REPORT

June 27

1966

MR. PRESIDENT

We, your committee on FINANCE AND CLAIMS

having had under consideration HOUSE BILL No. 36

third reading copy (blue)
color

ALLOW SALE OF MONTANA YOUTH TREATMENT CENTER TO PRIVATE HEALTH CARE

PROVIDER

Adby (Reading)

Respectfully report as follows: That HOUSE No. 36

BE CONCURRED IN

DO PASS

DO NOT PASS

SENATOR REGAN

Chairman.